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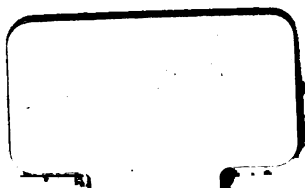
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A LETTER
TO
THE LORD CHANCELLOR,
ON THE
CLAIMS OF THE CHURCH OF SCOTLAND
IN REGARD TO
ITS JURISDICTION
AND ON THE
PROPOSED CHANGES IN ITS POLITY.

BY JOHN HOPE, Esq.
DEAN OF FACULTY.

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1839.

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‘ It does therefore appear to me, that this plan of leaving it to the
‘ General Assembly to determine what ought to be done, leaves the
‘ matter in this state of almost inextricable difficulty, that while you
‘ escape for the time from those insuperable perplexities through which
‘ Parliament itself cannot see its way to any clear result, you are asked
‘ to do away the existing law, and to put the whole power of making a
‘ new constitution in the hands of the ecclesiastical assembly ; a
‘ numerous body of individuals, under whose judgment it is impossible
‘ for this House of Commons or the legislature in general to know
‘ what it is probable that they may get in place of the existing law of
‘ patronage. And then is it nothing that the state, the legislature,
‘ which in enacting laws constitutes the state, is to destroy that con-
‘ stitution of the Church and State which does exist, and to commit
‘ to other bodies the power of *originating* (not of electing ministers,
‘ that is not the thing, but *originating*) *the law of the state upon these*
‘ *important matters of the institution of ministers for every parish in*
‘ *Scotland* ? I imagine that it is altogether without precedent in the
‘ House of Commons to do this, and that that is a conclusion to
‘ which this Committee will not easily come.’

Lord Moncreiff.

—Evidence before Patronage Committee,
March 1834, p. 188.

OUTLINE OF CONTENTS.

Judgment of House of Lords on the illegality of the Veto.

Resolution of General Assembly, May 1839, to enforce the Veto.

Appointment of Committee to obtain a recognition by Parliament of the Jurisdiction of the Church, and an Act to alter the law of Patronage.

Admissions by Dr. Chalmers that the passing the Veto was “a Blunder” on the part of the Church.
—that the measure ought to be materially altered.

Points in the Auchterarder Case only a small part of the alarming proceedings of the Church.

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 - might be as easily introduced in England.
 - if in themselves proper, as necessary in the English Church.
-

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Opinions entertained by the Committee and a great body of the advocates of these measures.

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Proposal of Committee as to the *general jurisdiction to be committed* to Church in regard to Patronage.

Real character of Dr. Chalmers’s motion disguised in ‘Statement’ by Committee.

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Proceedings of Church greatly affected by a change in the composition of General Assembly.

- this effected by the incompetent introduction into Church Courts, of the ministers of *Chapels of Ease*.
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Erection of all Chapels of Ease into Parish Churches, with parochial districts, by AN ACT OF THE GENERAL ASSEMBLY.

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- declared to have the same rights with parish ministers.
- anomalous and unconstitutional character of this proceeding.

Interference thereby with established rights of the parishioners in legal parishes to the services of their minister.

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Important rights, affecting civil interests, attempted to be bestowed on these chapel ministers.

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Admission by the General Assembly of a certain class of Seceders into the Church.

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—and their ministers declared to be parish ministers, and members of Church Courts.

Declaration by this class of Seceders of their tenets.

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—that the League and Covenant for extirpating Episcopacy in England is of perpetual obligation on posterity.

—that the acknowledgment, in the Treaty of Union, of Episcopacy in England, is contrary to the Word of God.

—the doctrine of *ministerial liberty*,—destructive of unity of doctrine, and the source of endless divisions in the Church.

Great extent of concessions made by the General Assembly, in order to satisfy these Seceders on these points.

Anomaly as to these new parishes for the Seceders.

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Objections to the Veto.

Inconsistent with the authority and functions of the Church Courts, and with the right government of the Church.

—explanation of this objection.

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Striking admission by Dr. Chalmers, since the meeting of last Assembly, of the necessity of great restrictions on the Veto, and of restoring the controul and review by Church Courts, so that the right to reject shall not be absolute.

—this admission inconsistent with the views of the Committee, and with the whole theory of the Veto.

—inconsistent with the doctrine of non-intrusion against the *will* of the *people*, as now explained by the Church.

—inconsistent with the notion of a *right* to reject in the people.

Attempt by Dr. Chalmers to obviate the objection that the Veto is inconsistent with the authority and functions of Church Courts.

—his answer is founded on a mistake as to the operation of the Veto.

Theory of the measure is to submit the person presented to the judgment of the people.

—the Church Courts devolve over that duty to the people, without the power of review in case of rejection.

Great difference between the most extensive view of the Jurisdiction of the Church Courts in judging of

fitness of presentees, and a *right* on the part of the people to *reject*.

—two things quite separate and distinct.

Statement by Dr. Chalmers that until he read the opinions in the House of Lords, he was ready to give up the Veto.

Misconception by Dr. Chalmers of the opinions of the Lord Chancellor and Lord Brougham.

—the opinions did not go beyond the terms of the judgment of the Court of Session.

The point raised by the Veto law does not bear upon the extent of the jurisdiction of Presbyteries in judging of Presentees.

—by the Veto law, Church has excluded its own power completely in the event of a rejection.

The only point raised by the Church is a *right* on the part of the people to reject, for the exercise of which they are not to be accountable to the Church, and the reasons of which are beyond the province of the Church.

Great extent of Jurisdiction which belongs to Presbyteries, in regard to objections to Presentees.

—in no degree affected by the judgment of the House of Lords.

—extends to every objection whatever.

Reasons stated by Dr. Chalmers for giving a right to the people to *reject*.

—apply to the objections to presentees, of which the Presbytery are the proper and the best judges.

Only consistent view on which Veto can rest, leads to a *right* of *election* by the people.

Analogy drawn by Dr. Chalmers between the just perception of gospel truth, and the perception of natural beauty, by the peasantry of Scotland.

—remarks on this.

Right really claimed for the people is that they must be *pleased*.

This inconsistent with the duty and functions of the Church in their charge of the people.

Veto destroys the proper relation of the Hearers of the Word to the Church.

- proceeds on a false estimate of human nature.
- is indefensible if this estimate is not sound and scriptural.
- tends to mislead the people as to their relation to their teachers.
 - to destroy the authority of their pastors.
 - to deceive the people as to their own love of the truth.
- is destructive of a teachable and docile spirit among the people.

Veto assumes the whole communicants in the country to be qualified to judge of the merits of their intended pastors.

Causes which will mislead the people even if conscientious.
 —a judgment on hearing trial sermons a most unsafe and imperfect mode of judging.

People declared by Dr. Chalmers in 1833, not to be qualified to *elect*.
 —Dr. Chalmers's statement of their 'gullability' on such subjects.

Important opinion of Dr. McGill against the estimate of the qualifications of the mass of communicants on which the Veto is founded.

Injurious effect of Veto on views of the people as to pastoral office.
 —on views of Licentiates and candidates for livings.
 —testimony of advocates of Veto against it on this point.

Ordeal of Veto repugnant to right views of the pastoral office.
 —decrease in numbers of divinity students.

Dangerous opening afforded by Veto for the interference and influence of Presbyteries.
 —manner in which this interference will operate.

Causes which prevent fair and conscientious judgment in the trial of the presentee.

Projectors of the Veto proposed it in order to guard against popular choice, and to protect patronage.

Admissions in the Assembly 1836, both by the advocates of the Veto, and by the opponents of patronage, that it had worked ill.
 —in the opinion of latter did good only in concussing patrons in surrendering the nomination of clergymen to the people.
 —instances of this result before 1836.

Illustrations of the working of the Veto act after 1836.

- power exerted by the people to compel patrons to give them their choice.
- instances mentioned.
- of excitement, and canvassing, and strife, and contentions in parishes.
- of scenes which have occurred in particular parishes.

Effects of the measure totally different from those which its projectors anticipated and desired.

- Veto now taken up by the opponents of patronage, because the measure leads to popular election, and arms the people with the power to secure that result.

Instances of the interference of Members of Presbyteries.

- of sermons on occasions of vacancies.

Injurious effects of Veto in cases in which dissents are short of majority.

- destructive of peace of the country.

Litigations in Church Courts as to disputed votes.

Conclusions which follow from principle of the Veto.

- people ought to have right to get rid of a minister, whom *after trial* they find to be inefficient, and incapable of edifying them.
- quite easy to provide for this as to future cases, by a change in the law.

No permanent connection or interest in the parish is required by the Veto law, to entitle people to decide.

Divisions between different classes of society which will result from the measure.

Dr. M'Gill's prediction has proved correct, that it enables one class to 'monopolize' the nomination of all the ministers in the Church.

- effects of this.

Dissatisfaction generally entertained at the change attempted by the Church upon the system acted on in Scotland.

Veto destructive of authority of the Church, and of satisfaction with the decisions of the Church Courts, when they reject the candidate favoured by the people.

Veto inconsistent with the principle of an Establishment, when majority of parish differ from Church Courts on points of doctrine.

—with existence of Establishment when the majority of any district are opposed to the Established Church.

Report by the Committee of Assembly to the meeting of the Commission in August.

—declaration by a member of the Committee of the only way in which alleged intentions of Government could be acted upon.

—remarks upon the report.

—upon Lord Melbourne's contradiction to part of it, and upon the statement ascribed to him in that report.

The importance of the Crown Patronage to the well-being of the Church of Scotland.

Conclusion—recapitulation.

Importance of adhering to the policy on which every administration has acted since the Revolution, of preventing the Presbyterian clergy acquiring power and influence, or the Church going beyond the limits assigned to it by law.

Attempts to induce one or other of the political parties in the country to take up the question of Veto.

—neither party will gain by doing so.

—nor will the clergy increase the respect for them by mixing in politics in return for aid as to the Veto.

ERRATA.

Page 159, *Note*, for 'this most desirable object,' read 'the object so much desired by the Scotch.'

— 161, line 14, for 'obey,' read 'disobey.'

A L E T T E R

to

THE LORD CHANCELLOR,

&c.



MY LORD,

If it were probable that the questions relating to the Church of Scotland, to which I am about to solicit your Lordship's earnest attention, would again come before you in your judicial capacity, I should certainly not address your Lordship on the subject. But the proceedings of the last General Assembly must soon force themselves on your consideration, as a member of the Government, and will demand from the great constitutional adviser of the sovereign, very careful and anxious inquiry and deliberation.

The Assembly have themselves resolved to press the objects, which a majority at present have in view, on the consideration of the Government; and have given authority to a Committee to attempt to arrange, if possible, with the aid of Government, a scheme respecting the settlement of ministers,—provided it upholds a general principle to which the Assembly have resolved to adhere, notwithstanding the recent judgment of the House of Lords.

That Committee have, it is understood, already put themselves into communication with the Government, and have urged upon some of its members the propriety of giving, in general terms, to the Church, by act of Parliament, the power to do that legally, which the Assembly have declared, in the most peremptory terms, that they intend to do in all events and at all hazards. I trust, that in the deliberations of any portion of the Government on so important a question, recourse will be had to the judgment of your Lordship, especially as the different bearings of the question, as well as the propriety of acknowledging the claims which the Church at present advance, are points on which your Lordship is far better qualified, from your ac-

quaintance with the Auchterarder Case, to form an opinion than any other member of the Government.

In May 1838, the General Assembly directed, that the decision of the Court of Session in the Auchterarder Case should be appealed to the House of Lords. That decision was affirmed, after full argument and anxious deliberation, your Lordship and Lord Brougham announcing, that you considered the points decided to be free from difficulty, and delivering opinions which satisfied every one of the care and attention which had been bestowed on the consideration of the case. The judgment found in substance, that it was illegal and incompetent, *on the part of the Church*, to give to a majority of the communicants of a congregation an absolute right to reject, without cause assigned, the individual (though duly qualified) who might be presented to a parish by the lawful patron; that is, to give them a veto on the nomination of clergymen: That *no such right had ever been possessed by the people of Scotland*,—and that *the Church had never enjoyed or exercised the power of bestowing such privileges*: That a rejection of a presentee by a Presbytery on any such ground, as a veto by the congregation, was a wrong, committed in violation of the rights of patrons, and a *breach of the duty* imposed on the Presbyteries of the Established Church by the acts of the legislature; in other words, that in regard to one of the most important points in the institution and economy of an Established Church in its relation to the State, the Church Courts had disregarded and set at defiance the plain conditions on which the Church of Scotland was adopted and settled by the State—had assailed private rights expressly protected by statutes, and had *illegally and wrongfully refused to perform an important duty, imposed on their Church Courts*, as a part of the institution, by the State, of an Established Church

Such was the deliberate judgment of the House of Lords, upon an appeal to its learning, wisdom, and authority, taken by the General Assembly itself.

The judgment involved two points: *First*, that the rejection by the people, without a cause assigned and judged of by the Presbytery, was illegal; and, *secondly*, that the Presbytery acted illegally, and violated the duty imposed upon them by statute, in *refusing to take the presentee upon trials*.

This latter point it is very necessary to keep in view, for it has been thrown entirely out of view by the Church in their subsequent proceedings.

In a few weeks afterwards, the General Assembly of this year, on the motion of Dr. Chalmers, resolved to continue in the exercise of the power thus declared to be illegal and incompetent,—to persist in doing the wrong thus declared, and in refusing *thereby* to perform the duty which it has thus been found formed a condition of the establishment of the national Church. Such, as will immediately appear, has been the resolution of the General Assembly,—and it has been followed up by

measures marking even more unequivocally the object of that general resolution, viz. instructions to Presbyteries to continue to enforce the Veto.

That this is a most extraordinary and alarming position for an Established Church to assume, is manifest to every one. That wrong should be openly done by a Church in the knowledge of the law,—that the statutes of the land should be deliberately and avowedly disregarded,—and that a judgment of the most authoritative tribunal in the Kingdom should be immediately followed by a public resolution of the Church to persevere in the assumption and exercise of power so declared to be incompetent, is a scandal hitherto unexampled in any Protestant country.

Dr. Chalmers proposes,* with the aid of the Committee which was appointed in last Assembly to communicate with your Lordship's colleagues, to 'demonstrate of this sentence, that altogether it is 'founded in error'—that is 'a misinterpretation' of the law; and he is encouraged in the hope of success, by the 'ignorance,' the 'rashness,' 'and reckless disregard of the dearest principles of the Church' which can be pointed out in the opinions of your Lordship and Lord Brougham.

A defence of the judgment of the House of Lords I do not propose to undertake. If it required confirmation, I should think that it had received it in the acknowledgment made by Dr. Chalmers, in the same speech, that the act of the Church in 1834, in passing the Veto, was 'A BLUNDER' which he *had attempted to prevent*.

In reference to the objects I have in view in addressing this Letter to your Lordship, it is more important that I should in the outset state, that in a note to the revised report of his speech, Dr. Chalmers acknowledges that the Veto law, after all, *ought to receive several most important practical alterations*—alterations which appear to be wholly opposed to the *principle* of the scheme. But the propriety of any limitations of the Veto the Committee of Assembly have not recognised; and the Assembly itself resolved, on the motion of Dr. Chalmers, to adhere to the principle that the people *must have a right to reject* a presentee, simply because they do not choose to have him. I shall, in the sequel, notice the remarkable acknowledgment now made by the author of the measure. It seems to import that the principle of the Veto is vicious—one which the Church ought not to admit. The admission I refer to is well calculated to make one receive with caution and distrust the proposal, either that Parliament shall at once sanction the Veto, or shall *commit to the General Assembly* the power to regulate the appointment of ministers *in any way which that body may choose*.

Hitherto public attention has been directed chiefly—(in England, I believe, exclusively)—to the points more immediately put in issue by the Church in the Auchterarder Case. These points, however important, form a very small part of the subjects which arise for consideration out

* Published Speech.

of the principles and measures at present adopted by the General Assembly and its leading members. Proceedings have been in progress for several years, which call for serious and grave consideration.

I propose in this Letter,—

1. To exhibit a view of the *principles* which are maintained on the part of the Church, in support of the position which they have chosen to assume, and of the measures which they have adopted; and of the consequences of these principles to the peace and well-being of the community, and to civil and religious Liberty.

2. To give a narrative of these measures—to point out the pretensions and claims on which they are founded, and the extent of the usurpation of power and of opposition to civil authority which they exhibit.

3. To show the real character and effects of the last proceedings of the General Assembly, which its supporters are at present studiously attempting to disguise, lest the alarm which might otherwise be entertained should frustrate the objects which the Committee have in view,—and the nature of the plan which the Committee have suggested.

4. To point out some causes, which have produced this sudden and extraordinary change in the claims and pretensions of the Church of Scotland, viz., in particular one great practical alteration which the Church has (incompetently) made in the constituent members of the Church Courts.

5. To exhibit some of the more important objections to the proposed changes, which the Church mean to press on the attention of the Government, and some of the probable results of these changes, both on national character—on the usefulness of the Established Church—and on the general interests of religion.

That many who have joined in the recent proceedings of the Church, really do not understand the position in which they have placed themselves I believe to be true:—and I have no doubt that the delusions incident to a popular body, (meeting rarely, and composed in a great part of ministers, few of whom are constantly elected to it), and the vague notions of importance and consequence which the assertion of Spiritual Independence seems to bestow, misled others into the approval of measures, the *instant* adoption of which (within a few days after the judgment of the House of Lords) was pressed upon them, with the greatest vehemence, as necessary to preserve the independence and rights of the Church.

The Assembly, while it resolved to enforce the veto, further appointed a Committee to endeavour to *obtain an alteration of the law*, which they first resolved to disregard, and to require the sanction of the legislature to this power of congregations to reject at pleasure the persons, whom patrons present to livings, before they have even been taken on trials by the Church—or even to the grant of some more direct and exclusive power to the people in the election and nomination of ministers.

These objects the Committee are directed to urge, and they are now

engaged, as your Lordship is probably aware, in the attempt to effect their objects.

The importance of these proposed changes on the state of society under any Established Church cannot be denied. When the legislature, in the reign of Queen Anne, after the experience of twenty years, found that it was necessary for the peace and quiet of Scotland to restore the rights of patronage, which had been, by the Scotch statute 1690, transferred generally to the *proprieters and elders* (and to these only) in parishes, the statute (10 Anne, c. 12) declares, that ‘that way of *calling* ministers has proved inconvenient, and has occasioned great heats and divisions among those who, by the aforesaid act, were entitled and authorised to call ministers.’

Of the truth of this declaration ample proof, if necessary, could be given, in addition to the recorded opinion of the legislature. That a more popular system in the nomination and choice of ministers of parishes, or a regular and organized appeal to the people for approval or rejection, will lead in the *present day* to greater divisions, more dissensions and heats, and to effects more permanently injurious, both to the peace and unity of the Church, and to the interests of religion, no dispassionate man can doubt. And the anxiety is natural, that the serious attention of your Lordship should be called to the subject, before any progress is made in the negotiations which the Committee of the General Assembly are to open with the government of the country for such important constitutional changes.

The changes contemplated cannot be confined to Scotland. The consideration of these cannot be regarded merely as a *Scotch* question, even if their importance to society in Scotland did not demand the most anxious consideration.

If it is necessary and expedient ‘for the Christian good of the people,’* and in order that the ministrations of a clergyman may be edifying and useful to his parishioners, and may contribute to their eternal salvation, that *they* shall previously be *satisfied*, upon a trial given to them, with his style of preaching, and with his ministerial gifts;—if there is no security that he can be useful, unless he is previously acceptable to the people of the parish in which he is to be placed,—if their welfare requires that *he shall be submitted to their approval*, otherwise the great work in which he is to be engaged will probably miscarry, so far as his agency is concerned;—if, on the principles of a reformed Christian church, it is essentially necessary that no minister shall be placed in a parish against whom the majority of the congregation or communicants are prepared to give a veto, (though without reasons assigned), and if their unwillingness to be placed under his scriptural superintendence as their pastor is, on religious principles, a paramount ground for rejecting him, and for giving them the right to reject him, whatever

* Dr. Chalmers.

opinion the Church authorities might form, if permitted, of the individual, or may actually entertain on the best knowledge,—if all these matters are admitted and recognised,—These considerations are not applicable to Scotland alone. They apply equally to England : Nay, they apply more forcibly to England than they can do to a country in which the Church is of more popular constitution, and in which the checks on the nomination of ministers are vested in Church Courts, having themselves, in the first instance, no Church patronage, and *exercising* a far greater power in the trial of qualifications than the bishops in England can do.

The law of patronage and the rights of patronage do not stand on a stronger footing in England. I doubt if they have as stringent and as express statutory protections as in Scotland. If an act of Parliament can alter the state of things in Scotland, a similar statute can as easily alter the state of things in England. The ground for doing so is equally paramount in both countries. The measure is as easy in one country as in the other. There can be no difficulty in England in keeping a Roll of the names of communicants : There can be no difficulty in the communicants, after the presentee has preached before them, declaring their dissent to have that person. No—is a word easily said by a body of people, learned or illiterate. Dissent is easily ascertained. Your machinery in England makes the operation simple and easy. The Archdeacon of the district has merely to take the roll and the people to come forward and say—we are not pleased. You have office-bearers enough in your Church for that simple procedure. No decision or judgment of any court is necessary. The regularity of the Roll it is easy to provide for, and you may either exclude questions as to the names once entered on it; or you have regular Church courts and Bishops, either of which may surely decide such simple matters. A statute with three clauses will at once establish the system in England. There is not one single difficulty in the government of your church to exclude the change. Your establishment affords, indeed, better means of doing so than ours. The vote of Cromwell's celebrated Convention on the 17th November 1653, that the right of presentation to benefices should be taken away, and the people in the several parishes be authorised at once to choose their own instructors, was neither a more difficult nor a more sweeping change to adopt,—although originating in the very same views,—than that which should give, under the existing economy, a right to reject the presentee if not acceptable.

If a statute is at once to subject the rights and law of patronage in Scotland, by a short and sweeping enactment, to this condition, a statute may as easily do it in England. The reasons for it are the same. The salvation of men in Scotland cannot require a statute which is unnecessary for their fellow-subjects in England. The latter are not likely long, in the present day, to think, that what was given on such grounds to their fellow-subjects in Scotland, would be unsuitable or improper for them, under a richer hierarchy—with a clergy, many of whom are even more removed above them in point of station and rank,—and with the same interest to secure ministers acceptable to themselves.

If, again, patronage, without *at least* this right of rejection by the people, is inconsistent with ‘the rights of a Christian people in the Church of God;’*—if it is an infringement on the privileges which, though trampled upon by the Church of Rome, had ever been possessed by the Christian Church in earlier and purer times, privileges flowing from and forming ‘part of the liberty’ which the Author of our religion bestowed on His people as members of the Church on earth;—if patronage, or patronage *without an absolute veto by the people*, is on these grounds indefensible, and a statute must be passed to secure to Scotchmen, as members of the visible Church, ‘the Christian privileges’ which law has denied to them, in opposition to the principles of Christian faith, and to the first doctrine of any reformed Church—such law must rest on a foundation as unstable and unsound in England. The rights of Englishmen in the Christian Church must be the same as those of Scotchmen. The infringement on their Christian privileges by patronage, or by patronage unrestricted by the exercise of a veto or dissent of the congregation, must be the same. The evil is as clamant—the remedy equally called for

Whether the demand for the remedy now exists in England, makes *in principle* no difference, and *in fact* such difference will soon cease. If the *people* in England do *not know* what is *necessary* for their spiritual welfare, or to what extent their Christian privileges, as members of the Church on earth, have been infringed, their spiritual interests do not the less require the remedy which is to render the ministration of the ministers of the Gospel blessed to their edification:—Nor is the violation of their Christian rights the more defensible, that its unscriptural character has been concealed from the people. The vice in the constitution of the Church is only the greater, if the people have been so blinded, as in the time of popery. Whether the people in England now demand the restoration of their Christian privileges or not, the duty of restoring them rests on the same basis in England as in Scotland.

Rely upon it, however, the demand will soon be made on the same practical grounds, if recognised as applicable to Scotland. And it will be difficult to maintain, that the simple principles claimed by the poorer and more popular Church of Scotland, as part of the system of a gospel ministry instituted by its Divine author, should not be introduced in order to give efficacy and grace to the ministrations of a Church in which the institutions themselves, and the system of patronage, seem only the more to require that the people shall be allowed to reject the ministers from whom they think that edification cannot be derived. That much of the patronage in England belongs to the Church itself, would only tend to strengthen the arguments for the change.

The questions which the Committee of the General Assembly intend

* Mr. Candlish.

to press on the consideration of the Government, are thus of *national* interest and importance, and the consequences of any concession to the demands now preferred may be far more extensive than the most experienced and sagacious statesman can foresee. To deal with the question as a *provincial* matter, or as affecting only the Church of Scotland, and of little moment to the general interests of society in Britain, will be a lamentable mistake in every view of the subject, and eminently absurd in this respect; viz. that the change proposed for Scotland is one which will very soon be demanded for England, and will open up a new source of agitation and ferment in society in that part of the kingdom.

I am persuaded that it is not on any such narrow views that your Lordship will be disposed to deal with the matters which a demand to make the veto legal opens up. The whole character of your opinion in the Auchterarder Case entitles us in Scotland to expect that matters of such vast moment will be dispassionately considered by your Lordship, with reference to the real interests of society and of religion, and without regard to the temptations of partial and temporary support from one section of the clergy, which,—we are not very decorously told,—are to be held out to the Government by presbyterian ministers, as an inducement to comply with the views they are now advocating.

Any encouragement in the meantime to the views recently put forth on the part of the Church might also produce irreparable mischief, by promoting the Scheme of encroachment on existing laws, and of Independent Jurisdiction on the part of the Church, which has been unequivocally displayed. While firmness and decision on the part of the Government, with the general feeling of dissatisfaction which the proceedings of the Church have created in Scotland, will soon correct the unnatural state of things, to which the precipitation of the clergy has given rise, and the steady administration of the law produce its invariable effect in the restoration of regularity and order, yet excitement for some time on the part of the clergy we must be prepared to expect. A sort of feverish agitation has lately been exhibited on the part of many of the ministers of the Church, altogether unknown in former times, and little likely to maintain the quiet, useful, laborious character of the parochial clergy of Scotland. That the spirit of the present times is working unfavourably even among them, producing a restless desire for change, and a tendency to sacrifice more important interests to the acquisition of popularity and of more extended influence; and that to this cause, the recent attempts to magnify the general estimate of the authority and independence of the Church, are mainly to be referred, are conclusions at which, whatever the clergy may think, the laity in Scotland are very generally arriving.

The desire for change, and the love of power, now prevalent among them, was manifested in a remarkable manner in the attempt to introduce and establish this veto on the nomination of presentees. Your Lordship had complete evidence before you that the measure had no sanction in any corresponding regulation during any period of the history

of the Church ; and it was not pretended that such a *regulation* as a veto was even heard of before. It was avowedly a new thing, introduced and invented to give efficacy, it was said, to some abstract principle, and was first devised during that general agitation in the minds of men, which the mighty changes by the reform bill inevitably for the time produced.

Yet in the ferment of that period of excitement the measure was introduced ; and the clergy have now resorted to the doctrine of the *Independent Power* of the Church, in order to defend the illegal usurpation. Once embarked in the contest for power, once committed to change and revolution in the Church, the love of distinction as popular declaimers, as champions of the Church, stimulates many, unconsciously to themselves, to enter the arena, which originally had no attractions for them ; and the stimulus of popular assemblies both excites and keeps alive the same spirit in which the first encroachment on the law and rights of parties originated. For some time, therefore, we may expect that, among the clergy, and some who have now united with them, somewhat of the same zeal may continue to operate.

But the increasing disapprobation of the country, most strongly evinced in every quarter, will at no long period, I believe, deprive the advocates of these measures of the hope, that the support throughout the country which they court, is to accompany them in this struggle :— and the spirit of agitation will gradually subside, and the energies of the clergy be directed to more legitimate objects, as they discover that this is a vain expectation.

In every speech at present this hope is conspicuous ; in every sentence the desire to agitate for popular support is apparent. ‘ We shall rally our countrymen once more, now that the old banner is ‘ again (!) broadly displayed,’ is the exclamation and the hope with which one of the leading speakers in the Assembly supported the resolution to which I allude.* But the comparison is lamentable, between the great and patriotic and enthusiastic struggles of the presbyters of old, fighting for their faith and their system of worship, against the encroachments of popery and the persecutions of a tyrannical court and of an insolent and unprincipled hierarchy, and the attempt, in the present peaceable age, on the part of the Established Church Courts of the country, to assume power inconsistent with the statutes which create them, and to perpetrate deliberate wrong under the disguise of asserting ‘ the privileges of the Christian people,’ or ‘ the rightful power of the Church of Christ.† That the intention to rouse the country to take part in such an attempt will fail, it requires little knowledge of the present times to predict ; and it should seem, that the eager desire to urge through a conclusive and fatal measure within a few weeks, or even days, after the decision of the House of Lords, betrayed some consciousness that strength was not to be gained by a more deliberate and cautious expression of the opinions even of the Church, much less of the people of Scotland. The people know well the difference between

* Mr. Candlish.

† Ibid.

the years 1560, 1592, or 1638 and 1839, and how vain is the attempt to *get up* the shew of the mighty struggle of the former period by debates in the present day. An immense proportion of the members of the Establishment view, with equal surprise and dissatisfaction, the *scheme of playing over again in the present day* the part of the Presbyters of 1638, and look with somewhat of the feeling of ridicule, that attaches to a scenic parody of the mighty facts of history, to the attempt to revive the language and pretensions of that age.

To all reflecting minds the Auchterarder Case, and the measures which gave rise to it, involved far more important matters than either the civil rights at issue or the change in the mode of settling clergymen, important as that point is in any religious establishment. No one considering steadily the principles promulgated in the Church, could fail to discover in them several *alarming sources of disturbance and confusion to the social system*, from which the interests of religion, the peace of the country, and the cause of civil and religious liberty, may most seriously suffer.

In requesting your attention to the subjects to be noticed in this Letter, and in pointing out the very alarming views which have been recently broached on the part of the Church and its advocates, it is right that I should inform your Lordship that this Letter contains the opinions—not of an enemy to, but—of a *member* of the Church of Scotland—zealously attached to Presbytery, as settled in the Church of Scotland—preferring its form of worship (after ample experience of the English service, both in youth and in riper years) as more simple edifying and impressive, and better adapted to the varied wants and feelings of the human mind:—preferring its Confession of Faith and Catechisms, as in his opinion sounder expositions of divine truth:—believing that the result of her system and ritual of worship is not only to secure more good effects from public prayer, but still more to give, on the whole, much greater prominence and importance to the *Preaching of the Word*, and thereby to direct the energies of the clergy more steadily to the greatest and most effectual means of public instruction which the ordinances of a gospel ministry can afford:—persuaded that the discipline and government of the Church of Scotland are, on the whole, better fitted than Episcopacy to guard the purity of communion, and to enforce constant attention to duty on the part of the ministers of the Church; and attached to the Church of Scotland by every feeling which hallows and endears the institutions of a national church to the mind—by long continued and constant resort to her ordinances—and by the benefits which have been received from the ministrations, public and private, of a valued and beloved Pastor.

That opposition, plain and unreserved, to the extravagant pretensions and claims which certain parties in the Church are now urging, and which even the General Assembly has sanctioned, will be considered as unnatural enmity on the part of a member of the Church, has been already evinced, in the denunciations which have been thrown out against all who do not support these pretensions, as

not possessing the feelings of patriotic Scotchmen. I shall be content to bear any such charge with great indifference, when I find that, in the revised and published Report of the Speech of one of the members of Assembly, my esteemed pastor, Dr. Muir, is charged with Popery in his views, because he contended that the Church Courts could not surrender to the people the paramount right and duty, (which he held to be part both of their spiritual superintendence over their hearers, as well as of their ecclesiastical constitution,)—to decide themselves on the qualifications and fitness of presentees.

Without regard, however, to the offence which plain and unreserved opposition may give, and from a most earnest wish to aid, if possible, in preventing the mischief to religion which the present pretensions of many churchmen are calculated to produce, I have now to point out to your Lordship some of the notions leading directly to disturbance and disorder in the social system, which have been promulgated in the course of the discussions in the Church during the last few years.

I allude, *first*, to the doctrine of Divine right, which is put forth as the ground of demanding both certain arrangements in the constitution of the Church, and Independent Jurisdiction and authority for the Established Church, as given to the Church by its Spiritual Head—a doctrine which has been the source in every age of the greatest intolerance, and the constant pretext for ecclesiastical usurpation. *2d*, To the claim of the Established Church to decide for herself what is within the sphere and scope of her Jurisdiction in relation to the State; and *3d*, To the effects on national character which some of the principles now advocated on the part of the Church will inevitably produce.

I. In the first place, the doctrine has been broached and revived, that ‘the *rights of the Christian people*,’ as ‘*members of the Church of Christ*,’ require either the abolition of patronage, or a right of absolute veto on the part of the people on the nomination of presentees. This is urged as a point of Christian doctrine. We are told of the ‘standing which the ‘Christian people have in the settlement of their pastors,’ as an *article of religious belief*, and as a *right (somehow) connected with the privileges and blessings purchased and procured for the members of the Church by our divine Redeemer*. It is difficult, in modern times, to convey in other words than those which are employed, (unwilling as one is to introduce expressions which cannot be commented upon without touching on subjects of the most sacred nature,) any correct notion of the extraordinary views on this subject brought forward by the highest Church authorities who advocate the proposed changes. The *liberties*, the *privileges*, the *immunities*, the *rights of the Christian people*, (for all these expressions are used indiscriminately) in regard to the settlement of ministers, are now talked of and treated as part of the rights ‘of the people in the Church of Christ;’* as part of ‘the privileges of that liberty with which Christ has made his people free;’* as *part of the*

* Mr. Candlish—published Speech, Assembly, May 1859.

spiritual blessings and Christian privileges which our Saviour has secured and promised to his Church, and as *connected with the hopes and bound up with the promises of Redemption.*

Thus, Mr. Candlish, in winding up his speech* in support of Dr. Chalmers's motion to disregard the judgment of the House of Lords, and after a variety of remarks maintaining the right of rejection to be among 'the privileges of that liberty with which Christ has made his 'people free,' at last unequivocally explains the nature of the ground now taken on the part of the Presbyterian clergy, in the following sentence, (continuing the allusion to the banner already quoted):—'The 'banner on which we find clearly and fully inscribed, Cæsar's crown 'indeed, but along with it, and not less clearly or less fully, CHRIST'S 'CROWN,—and underneath Christ's crown, and shielded by it, the *pur-chased liberties of his redeemed people.*' That these views point merely to the exercise of a veto (a thing wholly new) cannot be pretended. If they have any meaning, they decidedly strike against patronage, and lead to the 'divine right of the people' to elect their ministers.

But whatever may be the practical measure to be deduced from these doctrines, the important topic for reflection is, the ground which the Church puts forth as the foundation of the proposed changes, to whatever extent they are to be carried. I have taken the words of one of the latest speeches on the subject, rather than *innumerable* declarations in earlier discussions on the veto, both because time ought to lead to greater precision,—as it often does at all events, to more freedom—in the expression of opinions; and because these are the deliberate words of an accomplished minister in the metropolis of Scotland, carefully revised by himself; the published sentiments of one of the most intelligent and authoritative† of the clergy supporting Dr. Chalmers's motion, and of the Committee named to give it effect

* Revised Speeches, p. 45.

† The Confession of Faith contains no warrant for such views of Christian liberty. The 20th chapter explains 'Christian liberty and 'liberty of conscience,' i. e. 'the liberty which Christ purchased for believers under the gospel,' (§ 1,) in the manner in which every reformed church understands the term. And as if to prevent such results as that of the church, on any pretence, claiming, as a part of Christian privileges, any immunities which are not spiritual blessings, the last section (§ 4,) declares,—and let it be remembered that this is the Confession of Faith which Parliament adopted at the request of the Church, and which has the force of law,—'And because the powers which God 'hath ordained, and the liberty which Christ hath purchased, are not 'intended by God to destroy, but materially to uphold and preserve 'one another, they who, upon pretence of Christian liberty, shall oppose 'any lawful power, or the lawful exercise of it, whether it be civil or 'ecclesiastical, resist the ordinance of God.'

The Larger Catechism, in explaining 'the special privileges of the

The propagation of such notions among the people of Scotland, by members of the Established Church, might in other times have created great ferment, and caused much mischief. They seem to be precisely the opinions which the late Sir Henry Moncreiff condemns in alluding to Ebenezer Erskine,* as tending ‘to inflame the minds of the people by his doctrine on the authority of Scripture, and by asserting, what was incapable of proof, that he was contending for the original laws of Christianity, as well as the ancient law of the Scottish Church.’ If they do not produce the same mischief in the present day, it will be mainly owing to the deep hold which sounder notions have obtained of the minds of the people of Scotland, in consequence of the enlightened and admirable views on questions of ecclesiastical polity, which, till lately, the clergy of the Church of Scotland, of all parties and sections, have for nearly a century been inculcating. But the real and lasting mischief arising from this claim of Divine Origin for any particular opinions respecting the arrangements of Church Polity, lies in the Spirit of Intolerance, which such exaggeration necessarily generates.

When the fundamental doctrines of the gospel are mixed up with opinions respecting the nomination to benefices:—When the ministers of the Church proclaim the right of Veto, or of Election, to be part of the ‘purchased liberties of the redeemed people of Christ;’ who does not see in this the same spirit of intolerance which, in other ages, has even claimed the privilege of absolution or indulgence as part of the immunities of the people, and the same desire to subjugate and controul opinions on all matters of ecclesiastical polity, by invoking the sanctity of divine truth. The language which one applies to the veto, another applies to patronage in general as utterly unscriptural, and in all its shapes an invasion of the rights of the Christian people,—and another, with equal energy, appeals to scripture as proving that a *Call from the people* will alone bestow the unction and grace, without which no bond can exist between pastor and people.

Indeed, it seems to be absurd to limit the views, which are maintained in this speech of Mr. Candlish, and which pervade all the speeches on the subject in the last and recent Assemblies, to a claim for a Veto on the part of the people. Such a thing as a Veto is a mere novelty. Election of the ministers is the claim which has always been advocated on the same terms and on the same grounds of divine right. The doctrine above quoted is not new. It was started in Scotland, by the authors of the Secession, about 1730,—though *wholly unknown*, as Sir Henry Moncreiff explains, in the earlier history of the Church, when the election was claimed by the Presbytery, the people being only allowed to state proper objections which might be known to them. It is in vain to limit this doctrine of the divine right of the people to a claim for a Veto, and

‘visible church,’ gives the same view of the privileges of members of that church.

* Constitution of the Church, Edinburgh, 1833, pp. 57, 58.

to hold it as not pointed equally, and in principle, against patronage. I suppose Mr. Candlish would disclaim any such limitation; and most of the leading advocates of Dr. Chalmers's motion, and of the members of his Committee, are active members of the Anti-Patronage Society, and avowedly and decidedly opposed on principle to any system of patronage.

At a meeting in Edinburgh held immediately after the Assembly, to support the recent motion of Dr. Chalmers and the exertions of his Committee, by presenting petitions on the subject, and attended by most of the Edinburgh clergy who favour the proposed changes, the most unlimited hostility to Patronage was openly proclaimed *without any dissent from any of the clergymen present*.

Mr. Candlish and others cannot adopt the very language and opinions of the original assertors of the divine right of the people, and mean to exclude from among the privileges belonging to the Christian people the right of election, or to admit the compatibility of patronage with these privileges, in direct opposition to the views of those whose language they borrow. If they did, how absurd would be the result, to see in two parallel columns the very same language and expressions used for the Veto by the one set, admitting patronage in itself to be right and proper; and by their predecessors, against any system of patronage, and in support of the divine right of popular election, to which the doctrine necessarily leads.

In that calm and admirable review of the parties in the Church of Scotland, and the progress of their various opinions and errors, which Sir H. Moncreiff left for the instruction and warning of his brethren in the church, of which he was so distinguished an ornament, he has a very important passage as to the rise and origin, as well as the character and effects of this singular opinion of the divine right of the people. (Constitution, p. 39.)*

‘ There is another important fact which ought to be mentioned here, though it will be afterwards again adverted to. There does not appear, during the whole interval from 1691 to 1712, the least vestige of a doctrine so much contended for at a later period, which asserted a divine right in the people, individually or collectively, to elect the parish ministers. In all the questions before the General Assemblies, with regard to the settlement of parishes, there is no claim to this effect either asserted or pretended; nor does there appear to have been in any single instance, an opposition to the execution of the act 1690, on any principle of this kind. Whatever may have been the disadvantages of the Act 1712, they did not originate in its contradiction to any supposed claim of divine right, which, at the time of this enactment, though there might be private opinions of individuals in its favour, was neither conceded nor avowedly asserted.

* Brief Account of the Constitution of the Established Church of Scotland, originally published in an Appendix to a Life of Dr. Erskine, by the Rev. Sir H. Moncreiff Welwood, Bart., D.D., and republished 1833. Whittaker and Co., and James Ridgeway, London.

‘ It is well known how keenly this doctrine was brought forward at a later period, and how much more mischief it produced than any principle involved in it would have naturally led dispassionate men to anticipate.’

Again,—adverting to an Act of Assembly in 1730, respecting the settlement of ministers in cases where the presentation fell to Presbyteries *jure devoluto*, or where the patron did not choose to present,—he says, (p. 53,) ‘ No proceeding of the General Assembly has ever been followed by consequences which have more generally or permanently affected the state of the country. It was most strenuously opposed at the time by those who were then considered as the popular party in the church. By many of them, because the Act had not been previously transmitted to Presbyteries in the form of an overture, in terms of the Barrier Act; and by a considerable number besides, of those who asserted the divine right of the people in the election of ministers, and who would have been as hostile to the Act of Parliament of 1690 as they were to this enactment of the Assembly. The first class had constitutional grounds to plead for their opposition; while the latter asserted the right of conscience, and the rights of the people, which they professed to derive from the authority of Christ.’

‘ The state of the controversy was such, that it might have been naturally expected, after the division in the Assembly, to produce a very considerable degree of irritation in the country; and of this circumstance the keenest of the popular demagogues among the clergy did not fail immediately to avail themselves.’

‘ The Assembly was no sooner dissolved than Mr. Ebenezer Erskine, minister of Stirling, began to sound the alarm against the enactment, as a great encroachment on the rights of the people, on the constitution of the Church, and (what was much more serious) on the laws and authority of Christ. On the 4th of June 1732, a few days after the date of the Act, he preached a sermon in the church of Stirling, full of inflammatory declamations; in which, after laying down, in broad and unqualified terms, the *divine* right of the people at large to elect their own pastors, he roundly asserted, “ That those professed Presbyterians who thrust men upon congregations without, and contrary to the free choice their great king had allowed them, were guilty of an attempt to jostle Christ out of his government, and to take it on their own shoulders.”’

Again,—‘ Nor will it be easy to show that the doctrine asserted by Mr. Erskine in his two sermons was ever held or practised by the church, at any period since the Revolution; or that it can ever be reconciled to the language of the General Assemblies at any time before.*’

* The First Book of Discipline had indeed placed the election of pastors in the people at large. But when the points not sufficiently digested there were corrected and new-modelled in the Second Book

‘ Ebenezer Erskine certainly went much farther than he was warranted to do by the doctrine and practice of the church at any period since the Reformation. And though he inflamed the minds of the people, by placing his doctrine on the authority of Scripture, and by asserting what was incapable of proof—that he was contending for *the original laws of Christianity*, as well as for the ancient law of the Scottish Church—it may be fairly admitted notwithstanding, that he honestly affirmed what he had brought himself to believe; even while the unreasonable intemperance and pertinacity with which he maintained it can scarcely be denied.

‘ His doctrines, indeed, derived their chief importance from the keenness with which they were combated in the church courts; and from the violence of those who became his opponents or prosecutors. They who read his two sermons in the present times, will not think that they were in any respect worthy of the attention which was given to them; and will scarcely find it possible to doubt, that, with all the inflammable matter which they contain, had they been disregarded by the church courts, and never brought into question, their defects, in argument and substance, would soon have consigned them to oblivion.’

The mischief which Sir H. Moncreiff here mentions as caused for a time by the doctrine of the divine rights of the Christian people, it is easy to account for.

The determination of questions of Church Polity by reference to the immunities and rights which the blood of Christ has purchased for his people, and by appeals to the articles of faith essential to salvation, of course stamps each opinion, in the eyes of its sincere or unthinking professors, with the sanctity and the authority of divine truth. And still more, the assertion and claim of rights for the members of the Church, on the ground that such rights have been bestowed upon them by our Saviour, as part of the benefits of his atonement, tends to make them regard, as invasions of Christian privileges, any ecclesiastical arrangements which deny to them these rights. Any such schemes or arrangements of church polity are viewed as inconsistent with the principles of Christian faith, and, of course, utterly unfit to accomplish the purposes of a religious establishment, because repugnant to the doctrines on which alone any such establishment can be founded. Hence any other scheme is viewed with the abhorrence which leads at once to intolerance.

‘ of Discipline, the election of pastors is declared to be, ‘ by the judgment of the *eldership*, (that is, of the *Presbytery*) and the consent of ‘ the congregation,’ this language signifying, according to all the laws ‘ and usages which followed, the right of the people either to *give their* ‘ *CONSENT*, or to *state and substantiate their objections, of which the* ‘ *Presbytery were to judge*. The people were not the electors, even by ‘ this rule; and though it gave more power to the Presbyteries than ‘ was ever afterwards conceded to them, it gave the people *exactly the* ‘ *same place which the language of the church, both in early and later* ‘ *times, uniformly assigned to them.*’

Thus, in 1643, the Presbyterians of Scotland, after having achieved their own independence and freedom from the approaches of Popery under the pretext of Episcopacy, carried away by the same exaltation of opinions, and the same mistaken and vague appeals to the records of religious faith on subjects of ecclesiastical polity, proceeded to declare Presbytery to be the only form of church government warranted by the word of God, and attempted to establish it in the sister kingdom. Thus, within the last few months, in the metropolis of Scotland, in a meeting called to commemorate the principles and assert the powers of the Church, as exercised in 1638 and subsequent years, many of the leading supporters of Dr. Chalmers's recent motion loudly proclaimed the same doctrine, and revived the pretensions and claims for the exclusive authority of the Presbyterian Church, which, if imbibed by the people, or acted upon, might separate the religious community of the two kingdoms, in a manner fatal to the interests of religion. Mr. Candlish (the leading speaker in support of Dr. Chalmers's motion in the Assembly) is found supporting at that meeting a resolution which declared 'Presbytery alone to rest on the authority of Scripture.' Mr. Candlish declared, as one great object of his speech, 'I have a quarrel with Episcopacy altogether;' and in support of that quarrel, doubtless, he went as far as I presume any one at the struggle for the abolition of Episcopacy could well go. He regretted that he had not time 'to bring the Word of God to prove that Presbytery alone has its foundation there,' and that the defence of Episcopacy leads *necessarily to the authority of a Pope*. And as such views of the divine prescription of any one form of church government always lead to the most exalted claims for the power of that Church, which is held to be prescribed and set forth in Scripture for the Church upon earth, Mr. Candlish deplored the very imperfect and inadequate and feeble establishment of Presbytery in Scotland at the time of the Revolution, as but a mutilated and defective image of the more vigorous and Scriptural system which had been put forth in Bible purity and freshness and efficiency, in 1638. He claimed for the Church of Scotland even now, the constitution or schemes of 1638, 'which never had altogether fair play,*' declaring that the Presbyterian form is best fitted to 'secure and improve the outpouring of the Spirit of God,' and expressing his belief that the 'revival of sound doctrines, and spiritual and evangelical religion in England,' will lead, in that country, as a necessary fruit of genuine faith, 'if not to Presbyterianism, at least to as good a substitute for it as the laws of Episcopacy will permit;' and again, 'If this work of revival goes on, they (the clergy of England) must unite together in demanding that their voice shall be fully heard, not merely in the way of humble petitions, but in the way of free and equal discussion and debate in some assemblies, sitting under the presidentship, it may

* This remarkable passage will be afterwards quoted. See Report of Meeting in Edinburgh to commemorate the Assembly 1638, on December 20, 1838.

‘ be, of their bishop or archbishop, yet with freedom to state their own views, and to consult together on the glory of God and the good of souls. I heartily wish, Sir, that such a time may arrive, and whether they call it Presbyterianism or not, I shall rejoice to see such efficient instruments of a new life put into the hands of the ministers of the sister land,’—as if the great and main objects by which the glory of God and the eternal welfare of man will be promoted, could not be prosecuted effectually, and with the full benefit and efficacy of divine blessing, unless you have in England the contentions and parties of popular assemblies in your church. When such doctrines are inculcated by the ministers even of the metropolis of Scotland, it cannot be surprising that motions for the expulsion of the bishops from the House of Lords have found, in some parts of Scotland, a degree of favour which the state of political opinions alone in these places clearly did not account for.

At the same meeting another clergyman in Edinburgh,—a very active supporter of the recent measures,—Mr. Cunninghame, is found moving and supporting a resolution to the following purport :—‘ My motion brings us back in some degree to the independence of the Church ; not, however, to the question of the Church’s independence in the abstract, but to the connexion that ought to subsist between the civil and ecclesiastical authorities, and to the relations which ought to be formed between them. It is to this effect :—“ That these great men who were instrumental in effecting the second Reformation* of the Church of Scotland, held *sound Scriptural views* in regard to the *proper relation* of the civil and ecclesiastical authorities ; that they *acted upon these principles*, and *embodied them in their public standards* ; and that notwithstanding the contradictory objections by which, in different ages, they have been assailed, we still regard them as *founded upon the sacred Scriptures*, and *pointing the true path of the Church’s duty*.”’ This resolution, advocated by one of the most active and leading supporters of the proposed changes, declares, without disguise, that their object is to carry us back to the power and authority of the Church at the period in question, and to obtain practically for the Church of Scotland, jurisdiction and power which, at the re-establishment of Presbytery at the Revolution, was not conceded to it. The prosecution of this object, it seems, is ‘ *the Church’s duty*’ at the present time, and most faithfully are many of its most active members prosecuting the object.

And after advocating this resolution at some length, Mr. Cunninghame says, ‘ You will also be led to regard it as a *proof of God’s peculiar favour to the Church*, that the last Assembly of 1838, when the spiritual independence of the Church was only threatened, and not actually infringed, were led, in the true spirit of their forefathers, to make a bold and explicit declaration of their principles, and of their determination to adhere to them. And if the time should ever come, as it probably may, when we shall be called upon to contend, as in the days of old, for

* That is, in 1638.

‘ Christ’s sole right to govern his house, the knowledge of these principles, and the conviction that they rest on Scriptural authority, will constrain you, and will constrain the people of Scotland, to countenance and support the Church in the struggle which seems now to await her (!!!)—to stand by her as their forefathers did in all her contendings—to bear her up by their prayers and exertions amid every difficulty and danger, and to persevere in the contest, till, under the guidance of the great Captain of your salvation, you bring it to a glorious and successful issue. I shall only say farther, that I am sure it is needless for me, in setting forward these principles, to disclaim all political motives, any regard to the schemes and objects of political partizanship.—We are contending for the faith once delivered to the saints—for Christ’s crown, and for the best interests of the country.’

Mr. Dunlop (one of the Committee of Assembly appointed to support their present plans) is found *seconding* a resolution to the following effect: (p. 18.) ‘ That it has been on many occasions, and especially at the period of the second Reformation in 1638, the great glory and peculiar privilege of the Church of Scotland, that she has faithfully contended for Christ’s sole headship over his Church; for the government established by Him in the hand of church office-bearers, distinct from the civil magistrate; and for the consequent power of the Church, derived from him, and therefore never to be abandoned, to regulate all spiritual affairs according to the word of God.’ In support of this resolution, it was stated by the Clergyman who moved it, ‘ That, independently of all civil authority and sanction whatever, the Lord Jesus Christ, as King and Head of the Church, has committed the keys of the Church, the complete power of regulating and governing all spiritual affairs, into the hands of ecclesiastical office-bearers; that there lies upon those office-bearers a corresponding indispensable duty and obligation to govern those affairs according to his laws; and, consequently, that, without his express permission, which nobody ever ventured to allege, they may never deliver up this power and duty, in whole or in part, into the hands of any civil authority upon the face of the earth.’ And again, ‘ No, no, sir, let mere politicians dream as they will about the Church’s government being the creature of the State. The *civil establishment* of the Church is, doubtless, the creature of the State; but the power of the keys,—the power of regulating all spiritual affairs, according to the word of God, is inherent in the Church,—belongs to her, apart from all human authority, in virtue of the mere naked word and will of the Lord Jesus Christ. It is not even within the power of the State to confer any spiritual authority whatever. It may ratify privileges already possessed; or it may confer additional civil ones of the most important kind. But *ALL ecclesiastical* power, properly so called, whether of doctrine, of government, or of discipline, flows from the Lord Jesus Christ alone, and belongs to the Church intrinsically and inalienably, by virtue of immediate grant from his hand.

‘ I must beg your indulgence, sir, for a very few moments more,

‘ while I state one or two conclusions manifestly arising out of the principles laid down.’

Then, to prevent the possibility of supposing that the terms in which these principles are stated, apply only to that spiritual authority over all the members and office-bearers of the Church, as to doctrine, conduct, and any part of discipline, which *belong*, it must be conceded, to every church, whether Established or not—the speaker, one of the clergymen of the Scotch metropolis, went on thus to state, in reference to the present state of the Church of Scotland, some of the practical ‘ *conclusions manifestly* ’ following from the principles he had laid down. One conclusion was, ‘ That the *whole system of church patronage is contrary to the word of God*. The church is a free and independent spiritual kingdom. *That* proves it. Only put the case of two distinct *civil* kingdoms. Suppose that America had the power of nominating the rulers of Great Britain, would Great Britain any longer be free? Would she any longer deserve the name of a kingdom at all? And is it to be for a moment borne, that *in the Church, the kingdom of the Lord Jesus Christ, a foreign power shall step in* and say—this man and that man shall rule you—at the very least, if you shall not be obliged to have the man whom I offer, *yet you shall have none but a man whom I have first selected and approved*. If this is to be borne, then *what becomes of those words of Christ*—“ I will give unto you the keys of the kingdom of heaven,”—“ my kingdom is not of this world?” What sort of a kingdom is that which another prince may enter, and say who shall rule it—what men are the best qualified to fill its various offices? They tell us, forsooth, that the State, by endowing the Church, acquires the right of nominating her ministers. If I believed that to be necessarily involved in endowments, I should say, let them all go to the winds. But I do not believe it; and there is not even a shadow of ground for asserting it. The State receives much more than ample compensation for all the aid it gives the Church, in the aid which the Church returns to the State. Why, the very end of an endowment is defeated, and the State utterly stultifies its own act, when, in exchange for an endowment, it insists on crippling, fettering, *despoiling THE CHURCH of her liberties*. Sir, the principles laid down go all *this* length, that a mere veto will NEVER do. It is doubtless a highly important privilege, compared with the want of it. But so long as a foreign power can step at all into the *spiritualia* of the Church,—so long as a patron can say, though not, indeed, you shall have the man whom I choose, yet you shall not have the man whom you yourselves might wish and deem it best to have—so long as any one vestige of the patron’s power remains, the *Christian Church is not*, and cannot be, what we have this night seen her in her own proper nature to be—a *free, distinct, and independent spiritual kingdom*.’

The same disposition to attach the sanctity and authority of divine truth to the institutions and ecclesiastical arrangements of some par-

ticular church,—and productive of the same intolerance,—is found in recent treatises put forth by members of the Church of England.

We are told with equal emphasis and zeal and confidence, that Episcopacy is the only form of church government sanctioned by the word of God—and that the Church of Scotland is not a Scriptural church, because it has not had unbroken succession of ordained ministers of the gospel from the times of the apostles, or of ministers ordained by bishops, to whom alone the duty is held to have been committed by the apostles—the doctrine, in short, of apostolical succession. Without dwelling on the accuracy or value of the historical evidence, on which this distinction and prerogative is claimed for any church, or denied to the Church of Scotland, the important point to notice is, the grievous errors and intolerant views into which the most mild and estimable persons are led, when they magnify into points of religious faith questions of ecclesiastical polity.

In the notions last adverted to, is involved the doctrine, that the grace and blessing promised to the Church, and to the preaching of the glad tidings of salvation, are not to be obtained and perpetuated and disseminated unless there is a particular course of human agency followed, viz.—by the consecration of those who have been successively so ordained from the time of the apostles in unbroken order; and that the word of God, proclaiming salvation through the atonement offered by our divine Saviour for the sins of men, can be preached in the demonstration of the Spirit and of power, only when it comes from the lips of those who can exhibit the historical evidence of this unbroken succession. Is the grace of God so limited in its blessings to the Church? Is the gospel (sent to all men) a dead book, if not expounded by this succession of ordained ministers? Is the blessing vouchsafed only to their preaching, and are ordinances vain, except from their hallowed hands? Are the prayers of a sincere believer not to find access and acceptance, if not offered by one *confirmed* by a bishop? Are the prayers and devotions of a *congregation* of believers, conducted and offered by one set apart for the ministry, vain or not acceptable, unless that individual has been consecrated by a bishop? Is it to be held that a nation could not deliver itself from the errors and corruptions of the Church of Rome, unless some of the bishops of that church were converted, in order to continue the blessing promised to the Church? What is this but to magnify the value of human instruments, by derogating from the power, and disregarding the special promises of the divine author of our common faith?—to claim divine authority for the particular institutions and views of particular churches in matters of polity?—and to convert into articles of religious belief, the distinctions which the accidents and peculiarities in the histories of different countries have introduced into their ecclesiastical establishments? It would be easy to show that, in this absurd doctrine,—limiting the communication of divine blessing, and giving virtue and spiritual influence to human agents,—are involved the germs of many of the worst errors and corruptions of popery, and the sources of the most grievous intolerance. It is noticed now, as affording another illustration of the lamentable effect, in blinding and preju-

dicing the minds of men, and in subjugating laymen, in their most important interests, to ecclesiastical influence, of all dogmas as to the systems of particular churches or points of ecclesiastical polity, which confound these questions with the articles of faith unfolded in the Scriptures, and pretend to decide them by arbitrary and sweeping applications of general passages in the Bible.*

Such attempts to claim the sanctity of religious truth, and the authority of Scripture, not only for the leading principles of different systems of ecclesiastical polity, but for the details and arrangements of each, lead of course to an utter intolerance for all different systems. In the more measured language of some, the Church of Scotland *may* be assisted and aided as a *matter of expediency*. In this view of expediency—the Church being established—being better of course than none—doing a great deal of good (how consistently with such views I do not understand, if the promise of divine grace is not vouchsafed to it) though not a scriptural church—an argument, forsooth, may be found to justify an Episcopalian in supporting Church Extension in Scotland.

In the more enthusiastic language of a Scotch Presbyterian,† the churches of England and Ireland ‘will never be *popular* churches, will *never thrive in godliness*, will never succeed in thoroughly Christianizing the land,—will never survive the shock of that immense mass of dissent which is now mustering its scattered forces to effect her

* The truth, on such questions, is admirably stated by Calvin, (in his Commentaries on the Epistles) in the course of remarks on a verse in 1st Corinthians, xiv. 40.—‘*Quæ sententia ostendit, noluisse eum as- tringere superioribus præceptis conscientias, tanquam per se neces- sariis: sed quatenus decoro pacique servirent. Hinc (ut dixi) col- ligimus perpetuam doctrinam, quem in finem dirigenda sit Ecclesiæ politia. Dominus externos ritus in libertate nostra ideo relinquit, ne putaremus cultum ejus illic inclusum: Interea tamen non permisit nobis vagam effrenemque licentiam: sed cancellos (ut ita loquar) circumdedit; vel certe ita moderatus est libertati quam dabat, ut demum æstimare ex ejus verbo liceat quid rectum sit. Hic ergo locus rite expensus discrimen ostendit inter tyrannicæ Papæ edicta, quæ conscientias premunt dira servitute; et pias Ecclesiæ leges, quibus disciplina et ordo continetur. Quinctiam hinc colligere promptum est, has posteriores non esse habendas pro humanis traditionibus: quando-quidem fundatæ sunt in hoc generali mandato, et liquidam approbationem habent quasi ex ore Christi ipsius.*’

The statutes of the Scotch Parliament, establishing Presbytery, take the same ground. They do not hold the government or discipline of the Church to be matters of indifference. They establish the Scotch Church as *founded upon the word of God, and agreeable thereto*. But they do not claim for it the authority of divine *Prescription*—they do not declare that Presbytery alone is founded on the Word of God.

† At the Commemoration Meeting, Edinburgh.

‘ruin,—until they have discarded the cumbrous appendages of prelacy
 ‘once solemnly abjured by those lands, and exchanged it for a discipl-
 ‘line, government, and worship, less conformed indeed to the vain pomp
 ‘and glory of the world, but more congenial to the spirit of the meek
 ‘and lowly Jesus.’

The same gentlemen* moving these resolutions, and maintaining these opinions in December 1838, are in a few months afterwards found holding the same language in support of Dr. Chalmers’s motion, and urging the adoption of the Veto, or of more extensive changes on the government. But in this unlimited determination of all such questions by the inclusion or exclusion of them from the Spiritual Kingdom of Christ, according to the bias, educational impressions, or natural enthusiasm of individuals or bodies of men, history shews us that the source of the greatest intolerance is to be found, and that the reasoning is based on an *assump-*

* I have attached, in common with most others, great importance to the resolutions and speeches at this Commemoration of the Assembly 1638. In the first place, they exhibit the principles and practical views of the *leading* advocates for the proposed changes, and of the members of the Assembly Committee, and of their other supporters. In the second place, it was a very earnest and formal declaration of principles, made in special reference to a period, when the principles, which they avowed, were acted upon and carried into effect. In the third place, it was avowedly and without disguise a meeting at which Patronage was denounced by these individuals as inconsistent with the word of God, and with the jurisdiction bestowed on the Church by its great Head. In the fourth place, instead of directing the recollections of the audience to the alarming encroachments and errors of Popery, which really formed the great moving causes of the exertions and of the excitement in 1638, when there was such just cause for apprehending the revival of Popery in Scotland,—(in direct contrast, in all the following points, with the Church service on the same occasion, conducted by Dr. Muir at Glasgow,)—the object of the meeting at Edinburgh was, first to attack Episcopacy, (as if from *that* quarter the Church of Scotland had any reason to apprehend direct or indirect encroachments); secondly, to put forth without disguise the claims of the Church to the full authority and power exercised and wielded in 1638; and, thirdly, to defend and stimulate opposition to the judgment of the Court in the Auchterarder case, and to uphold the entire independence of the jurisdiction of the Church on all matters which *the Church itself shall declare to fall within its jurisdiction*. And lastly, the opinions of these clergymen and their supporters were avowedly put forth for the particular purpose of preparing the minds of people for a contest or collision with the State, and for the spectacle of the Church renouncing subordination, as an Establishment, to judgments of the Courts respecting statutes of the realm,—and of endeavouring to create agitation and interest and excitement in support of the Church in this contest.

tion fatal to the liberties of mankind. One is too much apt to disregard the symptoms of such intolerance in the present day, and to treat with too much contempt the risk of liberty suffering from such causes.

The evils to be apprehended from such doctrines will often be found in the tendency to lead into *opposite* errors, and to give too ready a reception and too much weight to religious opinions, which seem to protect their votaries from these extravagancies. The Catholic religion finds sources of strength in all these errors, and accommodates its advances to the repugnance with which many will turn from these opinions. And what sincere Protestant, reflecting on the consequences of such extravagant doctrines in unsettling the views of many respecting their national Church and its Institutions, can look without alarm to the gradually increasing hold which the tenets and influence of the Catholic church are obtaining among many classes,—to the disposition to turn to its apparent unity, its authority, and discipline, as a sort of refuge from the discussions and strife of other persuasions,—to the avowed disposition to view the difference, after all, as so very slight!—the conformity in essential truths (!) as so complete, and the system as one after all so like our own (!) as really to carry with it nothing so very monstrous as our forefathers in their horror supposed, while it saves us from all those extravagant and high-flown notions which now so much abound. Who, seeing these things, and knowing, as any general acquaintance with life will teach him, that the revival of such extravagant doctrines in both of the reformed churches, has produced great dissatisfaction in the minds of the laity, can look without anxiety to the increasing influence of the Church of Rome, which, adapting itself to a corrupt and lax age, will find in all the extravagancies discords and violence in Protestant Churches, better means now than at any former period for advancing its own pretensions to Divine authority, regaining its former influence, and introducing anew the most oppressive mental tyranny under which man can groan. Is the most ardent profession of the democratical principles any protection against the entire subjection of the mind and conduct to the influence of the Catholic priesthood? Is the press,—is the state of the present times, any preservative against the insidious approaches and gradual encroachments of such a tyranny? It is not in these alone that the sound and healthful spirit of civil and religious freedom is to be found, if the essentials of saving truth are ever confounded with questions as to the ecclesiastical systems of different churches, and if men lose sight of the pure doctrines of the Cross in undue contention about systems of polity.

To any reflecting reader of history, there can be no question of the danger, we are now exposed to, of the encroachments of mental tyranny, by reason of the extreme opinions to which I have alluded. Can any one be so slight an observer of what is passing around him in Scotland and other countries, as not to see that a spirit of intolerance is arising with more or less disguise from popular branches of the Reformed Church? That the claim by Churchmen for Divine and spiritual authority, in whatever they are pleased to call spiritual matters or the interests of the Church, is preparing the way for great encroachments on

the freedom of mankind from this source, must be evident to any one who only considers what these pretensions do really amount to, and the anxiety and agitation with which they are urged and enforced. Assemblages of men are industriously congregated, to whom high-flown appeals from Scripture are made as to the authority of the Church—confounding the scriptural use of the term Church of God, with the influence and authority of the ministers or orders of a particular church,—at which the language of the Bible is used to sanctify, as if with exclusive appropriation, the powers and authority of the Ecclesiastics or Courts of the Church to which the spectators belong. The *prejudices and weaknesses and failings of mankind are flattered* by declamation on their ‘rights in the Church of Christ.’ Some of the greatest weaknesses of the mind are thus flattered and fostered. *Spiritual pride*, (so fertile a source of practical error—so fatal a poison to national character—so detrimental to the true influence of religion), is *ministered to*, and *encouraged* by those whose duty it is to repress it. The weaknesses of the people at large are appealed to, in order to strengthen their support of the Church which makes the appeal. Their support is claimed for the ecclesiastical rulers who assert *their* rights as well as those of the Church. ‘While we stand up for the rightful power of the Church of Christ, and assert at once and together our prerogatives as the rulers, and *your* liberties as the people,’—is the appeal of Mr. Candlish (in supporting Dr. Chalmers’s motion,) to the people of Scotland—and he expresses his hope, ‘that when the question is *thus put*, it will be fully and cordially and unanimously answered throughout all our parishes.’—Such is the tone by which a popular clergy, pressing on towards their objects, increased influence and power, seek the means of subjugating the minds of the people at large, and commencing a species of mental despotism which for the time will be equally burdensome, but happily will be sooner shaken off than papal tyranny.

I am well aware that Dr. Chalmers, a few days *after* his late motion was carried, disclaimed in the Assembly any participation in the ‘WATCHWORD of a particular section of this Assembly,’ as he called it,—viz. ‘the *right* of the Christian people,’—and said he desired to be understood as contending for the veto for ‘the Christian good of the people.’ But the movement which he contributed in 1833 to set a-going, has long since gone beyond his power of controul. And although he thus *emphatically derided the language* employed, yet the views which he himself states in support of his motion, lead, if intended to be taken as he expresses them, and to have any practical bearing, to the very doctrine he disclaims. In his published speech I find he distinctly advocates the *right* of the people, although certainly it must be admitted that it is not easy to collect from his speech *on what ground*, whether scriptural, ecclesiastical, or legal, he rests the claim of right. The only difference between Dr. Chalmers and Mr. Candlish is, that the latter takes up a distinct and consistent ground,—the former skinks back from the conclusions to which his own reasoning equally leads. I have carefully considered again and again Dr. Chalmers’s speech, both as reported next day, and as published at some interval of

time by himself. And if the power of rejection by the people, of any presentee whom they do not choose to have, is not advocated by him on the ground of their *right*, as members of a Christian congregation, so to reject, I own I am unable to understand the tenor of his argument. True; though the *right* is asserted, the *grounds* upon which the *claim of right is rested*, it is impossible distinctly to collect from his speech. Sometimes he seems about to approach very nearly to the ground taken by Mr. Candlish. Then he seems to rest the *right* on the power of the Church to bestow it: Again on the ground that it is *expedient* for the good of the people that they *should* have it, and in another, and perhaps the most distinct passage, (to be afterwards noticed), he rests the right on the ground that in *law* they *do possess* it.

Since the meeting of the Assembly, many, too many, proofs have occurred, that those maintaining the extreme doctrines to which I have alluded are not to be restrained by any such passing disclamation from Dr. Chalmers, or controlled in their views by him. Indeed, a very imperfect estimate will be formed of the *objects* and views of the leading and active promoters of the proposed changes, and of the opinions of the Committee of Assembly, if Dr. Chalmers should be taken as expounding their views or representing their opinions.

A series of weekly tracts, in order to awaken the people to the importance of the non-intrusion principle, which the Church has taken up for them, are at present published, it is understood, by clergymen and members of Assembly,—if not of the Committee appointed to prosecute these objects.

The first of these concludes with the passages of Mr. Candlish's speech which I have quoted, as stating the ground on which the claim for the veto rests; and in a subsequent Number it is argued, that the principle for which they are contending is 'founded on the Word of God and the dictates of reason.' It is said, 'Every thing contained in the Word of God, bearing upon the settlement of ministers, the rights of conscience and of private judgment, the responsibilities and obligations of men, contributes to establish the great truth, that the Christian people, that is, those who are duly and regularly admitted to the privileges of Church membership, should, *at the very least*, have full liberty to give or withhold their consent to the settlement of a minister among them, and by so doing to secure or prevent his admission as their pastor. The statements which the apostles have left to us of the conduct which they pursued, and of the principles by which they were animated in such matters, plainly prove that they would have been no parties to thrusting ministers upon reclaiming congregations; and as we have also to this effect the testimony of Clement, mentioned by Paul, (Phil. iv. 3.), as one of his fellow-labourers, "whose names are in the book of life," and who was settled minister of the Church of Rome under apostolic superintendence. In his Epistle to the Church at Corinth, written during the lifetime of some of the apostles, he assures us that the apostles, in preaching the gospel over the world, appointed the first-fruits of their ministry to be bishops and deacons, (for there were only two orders of ordinary

‘ecclesiastical office-bearers in those days), “with the consent of the “whole Church.” We are fully warranted to expect, that a principle which rests upon such high and sacred authority, and which is in itself so reasonable and proper, will work beneficially for the interests of religion, and that the neglect or violation of it will be attended with the most injurious consequences; and this has been most fully confirmed by the history of the Church of Scotland.’

The same views have been openly inculcated during the last year in sermons from the pulpit, which have been made the vehicle of recommending the present procedure of the Church in opposition to the judgments of the Courts of law.

Congregations have been told that the Veto act embodies ‘a principle of the Church of Christ.’ ‘In the maintenance of this great principle, the Church has come into collision with a judicial Court, whose power to take cognizance of the question it altogether denies, and whose sentence it refuses to carry into effect. In all the stages of this procedure, be it remembered, the Church is only asserting the very principle for which our fathers, at this period, contended—the *Headship of Christ and the rights of the Christian people*; and we, her ministers and elders, in maintaining this ground, and in exposing ourselves to trouble by such a course, are to be looked upon as occupied in no personal party contest, but in a struggle for that kingdom which the Redeemer has bought with his own blood, and for the liberties of its subjects’ (!!!) ‘a struggle in which our ancestors were engaged and were victorious, and where, encouraged by their example, strong in the goodness of our cause, and looking to the guidance and the blessing of our Covenant God, we either hope for similar success, or where we are prepared to suffer the loss of all things rather than surrender the brightest jewel in the diadem of our exalted Lord—the independence of the “Church, which is his body, the fulness of Him that filleth all in all.” In such a struggle we may surely rely upon the prayers and efforts of the descendants of our covenanting forefathers.’*

The temper of the times greatly aids the Presbyterian clergy in their present attempt to acquire influence. Many are greatly alarmed by the attacks made on the Establishment by Dissenters. Many justly view with great anxiety and distrust the measures proposed by government since 1831, both in regard to the Established Church of England and Ire-

* Many other instances might be given to shew that the measures of the Church are at present advocated, generally speaking, on the views and principles I have exhibited. I have given the above extract from a sermon by a clergyman, who has distinguished himself as an advocate of the proposed changes. It is needless to give more instances of a strain of reasoning which is equally lamentable, whether in sermons or in any other form, when addressed by the ministers of the Church of Scotland to their congregations, and the hearers of the Church generally.

land, and in regard to schemes of education. Many deplore the increasing laxity which the government have exhibited in regard to questions in which religious principles are involved. And many dwell with apprehension on recent declarations made in high quarters, that there is no difference, in *any essential point of doctrine*, between the Church of Rome and the Reformed Churches. The tendency thus is natural to go along with the faithful and earnest clergy of the Church of Scotland, in schemes which they bring forward as essential for the interests of religion, and for the glory of the Church. With others, again, the restless spirit of the age leads to a desire for agitation and change in all parts of the social system; and that desire for change hurries them on to support schemes in which they see only immediate power to the congregations, without dwelling on the ulterior and inevitable tendency to centre all power in the Presbyteries. Many, zealously attached to their own Church, willingly receive as conclusive any references to Scripture which are brought forward to shew that it is the only species of Establishment 'warranted by the word of God,' and see, in such views, only cause for greater and warmer love for the Church of their fathers;—without perceiving the certain effects of such views in producing the greatest intolerance, both in Laymen and Ecclesiastics, and in encouraging the pretensions of those, who derive the power they claim from such sacred sources.

Thus, for the time, the minds of many are blinded to the certain progress towards ecclesiastical tyranny, which will be the necessary result of many of the measures which the General Assembly for some years past have been endeavouring to carry through.

The proceedings of the General Assembly of this and the preceding year, to which I intend in the sequel to request the attention of your Lordship, will amply illustrate the rapid strides which the clergy of the Church of Scotland are making in their attempt to grasp power and ascendancy, and the intolerant and overbearing assumption of superiority over all other authority, which they are openly aiming at in their present measures.

2. In the next place, a doctrine has been asserted, more openly too than has often occurred in modern times—which lies at the root of ecclesiastical usurpation and tyranny, in whatever age or church it has been assumed and exercised over the minds of men. In order to acquire power, which had never been originally conferred by the State on any Church, the course pursued has been to put forward, more or less directly, the right of the Church, (that is, of the ecclesiastical authorities,) to decide on the limits and extent of its own authority, and to determine what matters are ecclesiastical and fall under its jurisdiction.

This is a claim which carries with it great plausibility. It is urged with a mixture of undeniable truth, though grievously misapplied. The terms in which it is stated are capable of a variety of meanings. The mind is apt to forget the distinction between the Church in the abstract, and the particular Church which may have been adopted in the country,

—the question being truly, whether the Ecclesiastics at the head of that Church may, as members of the Establishment, contend that they are to determine the extent of the Jurisdiction of that Established Church. When this claim is rested on the spiritual authority deduced from the divine institution of a Church on earth by our blessed Saviour, and on the powers conferred on it by the Great Head of the Church, it is one which may be made to include any subject, that can affect human happiness, or influence the progress of human society. And of course to those who believe, or affect to believe, that they are entitled thus to decide all questions between Church authorities and the State, by laying claim to divine authority in their own proceedings, there is no answer. On such views the Church *must* decide, and *is entitled* to decide in respect of its divine commission. The individuals may be fallible, but the Church must be taken to be infallible. Its authority is from a higher source than that which the legislature exercises—and it appeals to the Word of God in support of the decisions which it pronounces in favour of its own power.

History abounds with the lamentable effects of this monstrous assumption. But in none of the controversies between an Established Church and the State, has the doctrine been brought forward in a more alarming and unmitigated form, than in the recent discussions in the Church of Scotland by the advocates and supporters of the measures now pressed upon the Government and the Legislature.

One of the resolutions, already quoted, adopted at the Commemoration at Edinburgh of the Assembly 1688, at which meeting most of the supporters of Dr. Chalmers's motion assisted, asserts this claim in the most unlimited form. (Report, p. 18.)

In supporting this motion, (which was seconded by Mr. Dunlop,) the gentleman who moved it, a clergyman of Edinburgh, stated, as the first conclusion he drew from the motion, and the principles it involved, (p. 24.) 1. 'The first of them is this,—that whensoever the question arises, what is spiritual and what civil,—what belongs to the sphere of the Church, and what to the sphere of the State,—what to the things that are Cæsar's, and what the things which are God's—the Church may not acknowledge any civil tribunal upon earth as the judge of that question. This conclusion, the *importance of which is quite well known to all acquainted with the present position of the Church of Scotland*, is clearly and undeniably involved in the principle of a co-ordinate and independent church government. Sir, it is to give up the whole question,—it is to resign the entire government of the Church into the hands of the State,—to acknowledge, I do not say a subordinate tribunal of the State, but even the State itself, speaking by its highest possible organ, as the arbiter of the question, what is spiritual? Of course, the State, upon the other hand, is not bound to acknowledge the Church as the arbiter. But there *is* an arbiter above them both.'

Looking to the act 1592, establishing Presbyteries in Scotland, and

the cautious manner in which it recognised only such parts of the scheme presented by the clergy as that act specially enumerates, it would be difficult to maintain the above claim on any grounds to which the subjects of the kingdom were bound to submit : And hence, in explaining the views from which this conclusion is drawn, we are fairly told, ‘ The subject, Sir, to which our attention is drawn in this resolution ‘ is no mere strife of words. It is no question belonging to this world’s ‘ shifting politics. It is not a question of mere ecclesiastical expediency. It is not the mere question, what *were*, in *point of fact*, ‘ the principles of our *forefathers, who might be wrong*, or *what is the constitution of the Church of Scotland*, which is also not beyond the ‘ reach of error. It is a *far higher question than all this*. The subject of this resolution, as I hope to be able to show before I sit down, ‘ is one *involving principles of the Word of God* never to be relinquished,—principles which no change of circumstances can in the ‘ slightest degree modify or change,—principles for which our forefathers did not more manfully than rightly and dutifully contend, ‘ even unto death,—principles not so much connected with the rights ‘ and privileges of the Christian church, as with the sacred and inalienable prerogatives of the Lord Jesus Christ, the King of Zion, the ‘ King and Head of the Church.

‘ And I beg, Sir, to add the expression of my humble, but very ‘ clear and decided conviction, that the Church of Scotland still must ‘ take her stand upon the Holy Scriptures,—must take her stand, *not so much upon the mere fact of her constitution*, as upon the authority ‘ of that constitution in the Word of God, if she would go *through with the struggle on which she has so nobly entered* ;—if she would ‘ immovably and successfully maintain her ground there,—if she would ‘ show herself worthy to commemorate, or worthy to perpetuate and ‘ hand down the testimony of those noble men who adorned the Assembly of 1638.’

And then follows an argument on the ‘ power of government,’—the power of ‘ the keys’ designed by Christ to go down to ‘ the ordinary ‘ and standing office-bearers of the Church in all ages,’ deduced from the well-known verses in St. Matthew xvi. 18, 19, and other texts of Scripture, in every word of which, I presume, John M’Hale, calling himself Archbishop of Tuam, would most cordially concur.

Again, in the recent debate in the General Assembly, a learned gentleman (a member of the Committee in supporting Dr. Chalmers’s motion,) at once laid down the propositions, as consistent with the connection between an Established Church and the State—nay, as part of the constitution of the Church of Scotland, received by the act 1592 from the State—‘ First, That the judgment pronounced by the Presbytery of Auchterarder, and declared to be illegal by the Court of Session, related to a matter properly *spiritual* and ecclesiastical.’—And secondly, ‘ That in the event of a dispute as to whether it is properly spiritual or ecclesiastical, it is within the province of the Church ‘ Courts to determine the question in so far as regards the constitution

‘ of the spiritual relation between pastor and people ’* The last words of this sentence, in truth, form no qualification of the doctrine—for the determination, if within the province of the Church, must extend to all the necessary consequences of that determination. This sentence goes the length of maintaining the right of the Assembly to abolish patronage, to require a call, or to establish any system for the nomination of ministers, which they are pleased to say is the best, or the only way of constituting this spiritual relation.

The House of Lords has pronounced, on the appeal of the Church, its solemn decision as to the import of the statutes which established the national Church of Scotland, and declared (to use the words of this learned gentleman’s speech,) ‘ that the Church Courts acted illegally in refusing to admit the presentee under the provisions of the veto act,’ (p. 27.)

But then, it is said, ‘ But the Church Courts are *equally entitled to construe the statutes* which are the charter of their establishment, to the effect of vindicating and enforcing the jurisdiction in matters spiritual which the constitution has intrusted to them, and they would be traitors to that constitution, were they to prostrate at the feet of the Court of Session those rights which the legislature, in such express terms, has, for the good of the community, exclusively vested in themselves.’ And in order to illustrate the extent to which the Church could decide all such points, he stated as a proposition, ‘ which has been received for three centuries as axioms in our constitution,’ that the *induction to the benefice*, as much as the *ordination*, are spiritual matters, on which ‘ the constitution has invested the Church Courts with final and exclusive jurisdiction.’ Oddly enough, these propositions were attempted to be supported by the *Acts of Parliament* on which the House of Lords have given judgment, thereby acknowledging that it is to the statutes we are to look in order to ascertain the jurisdiction of the Established Church.

It would lengthen needlessly this Letter, to multiply the proofs that the Presbyterian clergy avowedly rest their present measures on the right of the Church to determine the extent of its own authority, by deciding what is spiritual and properly within the province of a church, and what is not within its province. I shall have occasion to refer to Resolutions of the General Assembly, and of the Commission of the Assembly, which both assert this claim, and proceed on the exercise of it, to an extent, in point of claim, fully as extreme as any proceeding of the Church of Rome.

The concession of this claim to an established church would be fatal to the liberties of mankind ; and the assumption has been in all ages the means by which ecclesiastical power and tyranny have been attained and defended.

When maintained in a popular assembly, by laymen, as well as

* Revised Speeches, p. 20.

ecclesiastics, this doctrine assumes the air of a popular topic. The independence of the Church forms the theme of high-sounding declamation. And the minds even of laymen are flattered and deceived by the notion that they are advocating the rights of a popular body, and maintaining popular principles, because they are asserting an independence against the law. The delusion is lamentable. They are blindly advocating pretensions which will tend to subjugate the minds of men to the most oppressive of any species of despotism—ecclesiastical ascendancy.

But thus it has ever been, that ecclesiastical power gains supremacy. The mind is equally fettered in whatever form its encroachments are made. We see at present Popery for the time in alliance with Radicalism, and allowing its adherents to announce themselves as the opponents of any establishment, and to advocate political and ecclesiastical principles, which a Roman Catholic church, in the full possession of power, could not for a moment tolerate. By permitting and encouraging this in the meantime, its wily priesthood see that their opponents are deceived into the belief that they are the advocates of popular rights ; while they delude the members of their own Church, who are thus led to suppose that their political opinions are permanently reconcilable with the doctrines of the Church of Rome : And thus its clergy are pushing on only the more surely towards the assumption of the power which will, if attained, soon destroy all such theories.

These reflections press themselves on every one who dispassionately considers the course which things are taking in the Church of Scotland.

The ascendancy and undue influence of a Presbyterian clergy, the exercise by them of power and authority by means of their popular assemblies, severe and irksome as such may be for the time, cannot, fortunately, from the very nature and constitution of the Church, long subsist. But the evils will be great and lasting ; the effects on the human mind, and on the interests of religion, deep and serious. Whenever the Presbyterian clergy have thus overstepped their proper province, the result has been to give to all their proceedings, and to their ecclesiastical influence, a degree of moroseness, of severity, of intolerance for difference of opinions and customs, of aversion to other forms of worship, a desire to bring all into conformity to themselves, an illiberality towards dissenting persuasions, and a wish to govern and controul all matters in the country by Ecclesiastical authority, and by appeals to Scriptural instances and texts, which have proved most fatal to liberty of opinion, and ultimately most detrimental to the influence of religion. Such excesses might easily be shewn to be the natural results of the influence of popular assemblies, and of the competition between a number of rival candidates, in popular discussions, for the reputation of superiorsanctity and of superior activity and zeal for the promotion of the glory of God and the good of the Church. But these characteristics of the ascendancy of the Presbyterian clergy of former times, can never long find favour in the human mind, and will produce, as in other times,

a re-action which leads to opposite extremes, viz. to indifference to religion itself,—to a disposition to banish its influence from the direction of human affairs, because it comes to be viewed in connexion with the excesses of churchmen,—to hostility to the system of Presbytery which is charged with these excesses, and to the spiritual superintendence of the clergy of that Church, whose influence had been used for the acquisition of undue power.

We are told that Presbytery was but imperfectly established in Scotland in 1688,—that the Scotch Church was then despoiled of many of its highest attributes,—that the Church of Scotland in 1638, and as it then was called forth, is the great practical exemplar, to which the Church is at present desirous to approximate. And do we not know the fatal effects in producing these opposite extremes in the human mind which followed the ten years in which that constitution ‘*had fair play?*’

This is the lamentable and grievous result which the view of past times leads one to apprehend from the present state of things in the Scottish Church. Other ten years of similar encroachments, of increasing austerity towards conscientious difference of opinion on points of polity, of increasing hostility to the sister Church of England, of further assumption of power, of continued attempts to concentrate in the Presbyteries, which is the real aim of the Church, the practical selection of ministers, under the pretext of either the veto or the choice of the congregation; of opposition to and disregard of the decisions of the civil courts, under the sanction of appeals to the Divine Head of the Church, as the source of *their* authority; of attempts to compell the submission of all their licentiates to their arbitrary and illegal acts, under the threat of deposition and expulsion;—Other ten years of such a course of things, and how many will be driven from the church of their forefathers:—How many will be found hostile to any establishment in which such excesses seem to be the result of prosperity; and, alas! how sure, also, the tendency of mind which will thus be engendered, in throwing off the restraints of a galling and austere yoke, to seek for liberty in indifference, in levity, and in contempt for all serious things.

We are proceeding rapidly in the course which led to similar results in former times; and some of the clergy of the Church, I know well, already see the symptoms of such consequences among the circle of their own friends, and among their own flocks.

3. A third source of serious concern, is to be found in the increasing disposition to address these questions of Ecclesiastical Power, and of the *rights and privileges* of the Christian people, to the *lower orders* among the members of the Establishment, as *the class of society, which is in some way or other more peculiarly interested in them*; and to represent that class as the persons who alone, or chiefly, can enter into the feelings and objects and views of the clergy in their present measures, and are alone qualified, by the character and qualities of their Christian feelings, and by the fervour of their devotion, to appreciate the impor-

tance of these objects, and alone able and qualified to sit in judgment on the fitness of the presentees.

The *aim* of all this is very plain: and the *effect* is not less obvious. Such a strain of address from the ministers of the Church, tends to flatter the weakness of those to whom it is addressed, and to tempt them to take up these questions, as matters peculiarly interesting to them:—But it also tends to engender in them spiritual pride of the very worst kind,—the pride of believing in their own superior piety, and of looking on themselves as the most valued class of the church of Christ. This strain of address is *calculated*, (whether designed or not,) to induce them to lend implicit credit and support to the ministers who openly declare that they are the class who are chiefly interested in their present plans, and are the best qualified to appreciate their importance; and that *their* feelings and opinions and judgment are of far greater value than that of all the rest of the Church, in the selection or rejection of ministers.

This stimulant is now unhesitatingly applied to the feelings of this class of the members of the Church, by many of the advocates of the measures which your Lordship is to be solicited to promote. It was with great pain and grief that, in common with many others of Dr. Chalmers's friends, I saw the tendency of a great part of his speech, especially as it was delivered, in support of the motion which he so unexpectedly made for a resolute adherence to the Veto act, whatever might be the consequences. He declared that the upper classes did not understand them (the ministers of the church); that they did not know the objects for which they were labouring, and did not enter into their feelings their views or their labours; and this statement was accompanied with a declamatory denunciation of the supposed feelings of the upper ranks, contrasted with elaborate descriptions not only of the interest and the ardour with which the humbler classes both receive the labours of the clergy, and enter into the objects of their ministerial duties,—but of their wonderful and just perception of and relish for gospel truth, and their singularly correct judgments on the qualifications of their pastor.*

The upper ranks were repeatedly represented as having no sympathy for these feelings of the lower orders, by which alone the latter were supposed to be ever actuated in rejecting a presentee,—as disposed to treat all such matters with contempt, and unable to appreciate the interest which the common people took in the subject. And thence he treated the whole Veto question as one belonging to the 'home-bred peasantry of the country,'—or, as he said in 1833, 'our

* A great deal of what was said by Dr. Chalmers on this subject does not appear in the revised edition of the speech, though many strong passages are left. But a speech by Dr. Chalmers in the General Assembly is no passing matter—leaving no trace behind. He gave sanction and authority to topics of a very perilous and questionable character, especially when they are to be handled by inferior minds, less disposed and less able to counteract the effect of them.

‘ploughmen, our artisans, our men of handicraft and hard labour,’—discussed the matter as if the lower orders alone were either qualified to discern the gifts of evangelical preachers, or took sufficient interest in the subject, to be entitled to regard in the question respecting the mode of their appointment. It is *their* wish,—‘the honest demand ‘of the *common* people for a *pure* gospel,’—which with him seems to be the only expression of opinion on the part of the Christian people which requires to be thought of; and as they cannot (*he* says) state, even to the Presbytery, *their* objections to soundness of doctrine or soundness of preaching, therefore the right of rejection without reasons must be given, to enable them, ‘in their discernment of the gospel,’ in their ‘just perception of the truth,’ to reject unfit presentees. That which was said with genius by Dr. Chalmers, is more coarsely repeated by others in the hope of gaining support from the lower classes of the members of the Church.

The ‘*Christian* people’ seem to be taken as synonymous with the ‘*common* people.’

It is strange that a matter in which every one, as a Christian, is equally interested, should be represented as a question in which the lower classes are chiefly interested, or alone qualified to understand. True, there is an extent of religious *knowledge*, as well as of *piety*; of acquaintance with the sublimest truths of the gospel, as well as with its hopes and consolations; of the habit and spirit of prayer, and therefore of strength for duty of singleness of heart and elevation of feeling, of firmness in trial, and of support amidst sufferings of whatever kind, found beneath the roof of the Scottish cottage, which the state of no other people on earth can excell; and which afford ample proof that the clergy, for the last 80 years, have completely fulfilled the main purpose of a national church. On that very account—exactly because they have that degree of religious knowledge—there is not the slightest risk that, if they have objections to soundness of doctrine or soundness in the mode of preaching, such objections cannot be stated and made perfectly intelligible to their ecclesiastical superiors by pious individuals among the lower ranks in Scotland. But passing for the present from that point, I do believe there never was a greater mistake than the declaration of Dr. Chalmers, that the upper classes do not understand or appreciate the ministers of their church. I believe the truth to be exactly the reverse, viz. that many of the *latter* will not understand or do justice to the *former*—will not believe *their* real and sincere interest in the objects which are common to all classes, or perceive that their opposition, and their present anxiety in regard, to the measures of the Church, originate in the conviction that the welfare of themselves and their children is bound up with the well-being and good condition of the Church, from which *they*, as well as the lower classes, are equally to receive instruction; and to the ministers of which they look for comfort, consolation, and direction, with as much docility, with as strong a feeling of the necessity of their ministrations, and, I believe, with as much gratitude, as the humbler members of their congregations.

I believe the anxious attempts made to gain support by this flattery, addressed by members of the Church to the lower and middling classes, have in a great measure failed. But it is not unlikely that it may in some quarters produce, for the time, a considerable impression. And when it is remembered that, in the corruption and deceitfulness of the heart, pride is one of the most besetting infirmities, fostering itself even in the possession of religious knowledge, and prone to find aliment even in the *perversion* and *abuse* of the true and sound Calvinistic truths of our Church, we must be prepared,—if a portion of the Scottish clergy persevere in these appeals,—for more permanent and serious consequences to the minds and temper and habits of thought and action, among the lower classes of the members of the Church in some parts of the country, than merely giving their support, (if they do that), to the present proposals for supporting the measures of the Assembly. Such a disposition as that, which the flattery thus applied tends to foster, is likely to be productive of discontent with their lot in life, and dissatisfaction with the other necessary arrangements of society. Those who are taught to believe that they are best qualified to decide, without the necessity of assigning a reason for their opinion, on the qualifications of the ministers of the Church throughout each parish in the country, and that the opinion of the most numerous class is admitted at once and of necessity, by the Church, to be the most valuable, and to be by itself conclusive on such an important matter, are not likely to be satisfied with the other arrangements of the social system, which are not founded on similar views, and which do not acknowledge, (in the spirit of the Veto law,) that the paramount and controlling influence should reside in mere numbers. It cannot be supposed that they are cheerfully to acquiesce in a different distribution of influence in other matters of inferior moment, or to believe that the qualifications which the Church tells them they possess so eminently and so universally, will not lead them to as sound a judgment in matters of politics as of religion.

One result is inevitable,—viz. that those to whom such descriptions of their own Christian qualifications and purity of motives are addressed, will beyond all doubt, (and most justly too, in a question with Dr. Chalmers)—demand the entire abolition of patronage—demand, that, being so well qualified, they shall have the *choice* of their pastor, and shall not be fettered by the *nomination* of any patron.

Dr. Chalmers seems to think that the charge of *radical* principles had been brought against the ministers who had advocated the veto act, and that a misapprehension upon this subject is the cause of the dissatisfaction, which he seems acutely to feel has been so generally manifested among all the upper classes against the recent proceedings of the Church. I never heard it. Assuredly no one who knows anything of the opinions of the Church, could give the slightest credit to such an imputation, for happily the fact is universally and notoriously the reverse,—much less to such a charge against himself. The emphatic de-

claration *ascribed* to him the day after the account of the Reform Bill, in 1831, reached Edinburgh—‘It is much too plebeian for me,’ I believe, described the opinions of the great proportion, as well of those who may usually support him, as of those who differ from him, in the ecclesiastical courts.

But it may not the less happen, that the *effects* of some of the measures which they advocate, and of the arguments by which they are defended, may be very prejudicial to the peace and well-being of society, and injurious to the character of the most numerous class of the members of the Church.

Dr. Chalmers may be assured, that the nature of the questions involved in the Veto, and of the points respecting the jurisdiction and powers of the Church which the Assembly has chosen to raise, are much better understood than he supposes, and that the dissatisfaction to which he alludes, does not arise from so very absurd and vulgar an error as the supposition, ‘by the noblemen and high gentlemen in ‘Scotland,’ that the spirit of anarchy now prevalent throughout Europe is the same which is actuating the ministers of the Church of Scotland. I believe that those to whom he alludes will be much astonished to find such a supposition ascribed to them—and not a little grieved to think, that in the General Assembly of their Church, Dr. Chalmers, speaking on behalf of his portion of the Church, should have openly declared of the higher classes, ‘They know us not :—They understand us not.’

I shall afterwards advert to the grievous error, with *reference to far higher interests*, of a church holding out to any, or all, of its various classes of Hearers, that they are *all qualified* to sit in judgment, as a part of a public recognized ecclesiastical procedure, on those who are to be their instructors in religion and to be commissioned to speak to them the words of eternal life—are so thoroughly qualified and so invariably well disposed to decide with discernment, pious views, and conscientious motives, in the rejection of proposed pastors, that their Church holds it to be unfitting and presumptuous to inquire into the grounds of their rejection.

II. Let me now bring before your Lordship in detail, the recent proceedings of the Church, and the nature and effect of the measures to which the Church propose to obtain the sanction of the government, and the approbation and concurrence of the legislature.*

* Some of these proceedings are indeed well known. But others, which have not attracted much attention, could not be well understood without a connected narrative of the whole ;—and that narrative is necessary, in order to bring into view *the principles* on which the measures have been framed,—and to explain the extent and true character, of the *power* which the General Assembly of 1839 has claimed and assumed—of the opposition to law which they have announced and vindicated—of

In the year 1834, as your Lordship is well aware, the General Assembly passed an act, generally termed the Veto Law, with certain regulations for the purpose of enforcing it. The act is in the following terms.* ‘*Edinburgh, May 31, 1834.*—The General Assembly declare that it is a *fundamental law of the Church*, that no pastor shall be intruded on any congregation, contrary to the *will* of the people; and in order that this principle may be carried into full effect, the General Assembly, with the consent of a majority of the Presbyteries of this Church, do declare, enact, and ordain, That it shall be an instruction to Presbyteries, that if, at the moderating in a call to a vacant pastoral charge, the major part of the male heads of families, members of the vacant congregation, and in full communion with the Church, shall *disapprove* of the person in whose favour the call is proposed to be moderated in; such disapproval *shall be deemed sufficient ground for the Presbytery rejecting* such person, and *that he shall be rejected accordingly*, and due notice thereof forthwith given to all concerned; but that if the major part of the said heads of families shall not disapprove of such person to be their pastor, the Presbytery shall *proceed with the settlement, according to the rules of the Church*: And further declare, that no person shall be held to be entitled to disapprove as aforesaid, who shall refuse, if required, solemnly to declare in presence of the Presbytery, that he is actuated by no factious or malicious motive, but solely by a conscientious regard to the spiritual interests of himself or the congregation.

‘The General Assembly agree to transmit the above overture to Presbyteries for their opinion, and without a vote convert the same into an interim act.’

It may be right here to state, although well known to your Lordship, that, as a part of the regular procedure in the settlement of ministers in Scotland, according to established law and practice, the parishioners are allowed to state to the Presbytery any objections, of whatever kind, which they have against the presentee, whether as respects his life, conversation, doctrine, preaching, or general usefulness,—that these objections are considered and discussed by the Presbytery, with more or less form, according to their character and gravity, nay, if *necessary*, are made the subject of regular accusation,—that the Presbytery are bound to hear and consider them,—that their judgment, whether rejecting or sustaining them, whether finding the presentee qualified or not, whether refusing to settle him or not, is subject to appeal by any of the parties to the Synod of the bounds, and thence to the General Assembly,—that the parties are heard, if they choose, with counsel and agents in every stage,—that the whole procedure is matter of record, conducted with great publicity, forming an ordeal of a very severe description for any one to go through, against whom objections are stated,

the practical consequences to which their present measures lead—and of the proposals which they are urging on the government and the legislature.

* Auchterarder Report, vol. i. App. p. 1.

and attracting very great interest throughout the whole Church, if the case is one which merits any attention at all.

Even if no objections are stated by the parishioners, the Presbytery must inquire into every circumstance connected with the life, conversation, doctrine, and qualifications of the individual, which comes to their knowledge, and must strictly examine him also on his proper trials, so as to secure his possession of *all the qualifications for the ministry*, which the Church, not going beyond its proper competency, may choose to specify as requisite; the *degree* to which such qualifications must be possessed, being matter for the judgment of the Presbytery in each case, subject to appeal to the Church Courts. The candidate must *preach and lecture* before the Presbytery, who *may prosecute these trials till they are thoroughly satisfied*. The manner in which he preaches—the soundness of his doctrine, the style and appropriateness of his preaching—the suitableness of his views as to that duty for his proposed ministry—his notions of the pastoral duty, either as exhibited in his style of preaching or in any other way—his deficiency in zeal, in interest in his sacred work—his deficiency in *any* mental or physical requisite which is necessary for the charge to which he has been presented—in short, in *any* one respect, which the Church, in the exercise of its own judgment, is satisfied unfits him for the charge to which he is presented—are all matters for inquiry and judgment of the Presbytery to which the presentation is addressed. The license previously granted, or the trials by the Presbytery which may have previously given him that license, do not supersede these trials of the presentee, or this general inquiry as to his fitness, when he is appointed to a living, by the Presbytery to whom that presentation is tendered by him.

When your Lordship recollects that the Presbytery is a court composed of independent ministers, none of them entitled to any patronage, *except by their own decision in rejecting the presentee*,—that if within six months after the death of the last incumbent, the patron has not appointed a person *qualified* in *their* opinion, the right, *pro hac vice*, falls to themselves *jure devoluto*, it is manifest, that the tribunal to which the fitness of the presentee must thus be subjected, is one of a very searching and severe character. The manner in which its duties are exercised, and the important trust discharged, *depends on the Church itself*.

The *previous* trials by Presbyteries of those whom they choose to license, give the Church the *uncontrolled* power of *limiting the number to such* as are, in their opinion, qualified for the *office of the ministry, in every sense of qualification and fitness* which the Church, or even particular Presbyteries, *choose to assume*. There is no restraint whatever in the Church as to the qualifications to be required in those whom they license. It is now quite fixed, that the presentee must have studied in the way prescribed by the Church, and must be a licentiate. The Church may thus keep out every one whose mode of preaching is not even on the model they approve of, as well as not qualified to promote the objects of preaching.

The subsequent trials of the licentiate, when he has received a presentation, form a second, and as complete a check, as can be conceived,

exercised as both are by Courts sitting with the watchfulness and severity which forms one necessary feature of Presbytery in such trials, inasmuch as any one minister may appeal against the decision, as passing over defects in learning, deficiency in preaching, &c., and thereby acquire (so far as secondary motives are required to stimulate men to the faithful performance of duty,) distinction and credit in the Church for his zeal in keeping out a person likely to be an indifferent, feeble, and inferior minister. Hence, probably, in no other country is there the same security (if the Presbyteries of the Church do their duty) against improper and unsuitable selection among the licentiates of the Church, (to whom the patron's choice is confined), for an appointment to any particular parish.

The efficiency of the Scotch clergy as parochial ministers, and the manner in which they have retained the affections and promoted the welfare of *all* classes, under the system which has hitherto regulated their appointment, is one of those plain facts, which, as your Lordship remarked in giving judgment in the Auchterarder Case, ought to reconcile any set of men to that system.

It is in addition to this system, an imperfect outline of which I have now sketched, that the Assembly of 1834 for the first time declared, that they would give to the majority of male heads of families, being communicants of the congregation, an absolute and peremptory veto on the nomination of the patron, so as to prevent the Presbytery taking the individual on trials, or making any inquiry whatever respecting either the *motives* or the *propriety* of rejection:—The Presbytery having simply the ministerial duty of counting the votes, and intimating the rejection of the presentee as matter of necessity, if the bare majority voted against him.

The regulations annexed to this interim act in 1834, directed the Presbytery to appoint the presentee to preach once, on a day fixed, to the congregation:—they *may* appoint him to preach oftener;—but that is in their own discretion; and the time is limited within which the last day for preaching must occur:—the Regulations further declared, (§ 13), 'That if the Presbytery shall find that there is at last a major part of the persons on the roll dissenting, they shall reject the person presented, so far as regards the particular presentation, and the occasion of that vacancy in the parish.' And again, (§ 16), 'that if no presentation shall be given within the limited time,' (six months), 'to a person from whose settlement a majority on the roll do not dissent, the Presbytery shall then present *jure devoluto*.' Thus, this rejection by the veto was declared to be a sentence of *disqualification*, which should *forfeit the patron's right*, and give to the Presbytery,—if the act of Assembly could give it,—the presentation for that turn, *jure devoluto*.

The pretext, of allowing successive presentations within the six months, was very flimsy. It can rarely happen that a second could be effected within the six months, (supposing the first presentee

* Report, Auchterarder Case, vol. i., App. p. 4.

chose to acquiesce in this illegal procedure). The practical result, when the act comes fully into operation, and the Church gets its own way, will give, in every case in which the veto is exercised, the presentation to the Presbytery. And it requires little knowledge of human nature to see how the people and the Presbytery may play into each other's hands: what an effectual device this will become for throwing the whole patronage of the Church into the hands of the Presbyteries: what a fruitful source of intrigues, for the appointment of relatives or adherents of particular parties in the Presbytery, or among the clergy of adjoining Presbyteries.

To evince how steadily the acquisition of *influence* to the Church Courts was in view, the 17th regulation declared,* 'That cases of presentation *by the Presbytery, jure devoluto*, shall *not fall* under the operation of the regulations in this and the relative act of Assembly, but shall be proceeded in according to the general laws of the Church in such cases,'—a tolerably distinct admission, that this sort of veto or rejection by the people, without cause stated, so as to prevent the presentee being taken on trials, had not only never previously been heard of, but that it could be *dispensed with* when it interfered with the assumption of power on the part of the Church itself.

That during a vacancy, opportunities will present themselves, by means of which the members of Presbytery may practically influence, and often wholly direct and regulate, the state of feeling with which the parishioners will hear the presentee, and thus determine the result of the vote,—cannot be doubted, when it is considered, that the other members of Presbytery supply the vacant church *seriatim*, (and that in practice it is common to allow others to preach), and that one of them is specially to preach after the presentation has been received by the Presbytery, in order to intimate on what day the presentee is first to preach.

Indeed, interference is sanctioned by the Assembly; for the last regulation directed the Presbyteries to 'use their utmost endeavours to bring about harmony and unanimity in congregations, and be at pains to avoid every thing which may excite or encourage *unreasonable* exceptions in people against a *WORTHY* person who might be *proposed*,'—(and truly the presentation, after this Veto act, *came to be nothing but a proposal*),—'to be their minister.' The terms of this regulation left each Presbytery and each member to act under it, and in reference to the vacancy, according as he thought fit. If, in their judgment, the presentee is not *worthy*, or not so worthy as the person whom they had favoured, and whose appointment they wish to secure, the regulation in question gives plainly full scope for encouraging the opposition, which a knowledge of human nature leaves no room to doubt will easily be stimulated, in such a case, against a presentee. This regulation, in truth, authorised, if it did not encourage, interference. It is needless to say how easily—by the style and course of preaching—allusions to passages in Scripture, or incidents in the history of the Church—remarks on the responsibility of the duty

* Report, vol. i. App. p. 4.

intrusted to the communicants, and on the expectations which the congregation at large are entitled to form as to the manner in which the duty is to be performed—how easily a variety of individuals, all known to the people, preaching successively during the several months which may elapse before the presentation is issued, may indispose the minds of the people against the patron's choice.

It must also be kept in view, that although the right is given to male *communicants* only, yet the whole congregation are equally interested in the matter—that all will try to influence those whom they are acquainted with among the male heads of families—that the matter will thus be the subject of great discussion, canvassing, and solicitation, throughout the parish—and that those who are to exercise the right may often feel that they should give way to the wishes and objections of others. If the Church has said that the *people* must be satisfied—that a minister should not be intruded upon a congregation contrary to the *will* of the *people*—that it is not for edification and the spiritual good of the people that effect should not be given to their *will*, the communicants will most naturally feel that whether they would have dissented themselves, yet really as others wish another man—as some disapprove of and distrust the selection of *this* patron—and others do not like the individual, now that he has been heard—they really cannot go against the wishes of the mass, and must reject. Practically the individual is submitted to the approval or rejection of the congregation at large; and in cases which have occurred, the active preliminary proceedings, both before a person was presented, or subsequently, have been joined in by the congregations, without any distinction between those who were communicants and were not.

It may be worthy of notice, before going further, that the cases which occurred in the course of that very year in which the act passed, so alarmed all thinking persons, that the Assembly, in 1835, found it necessary to issue the following Admonition, as if irresponsible power, given to the people by such an enactment, and proceeding on the acknowledgment of an absolute *right* of rejection,—not to be controlled or accounted for in its exercise even to the Church,—could be regulated in its workings by pastoral admonition:—

‘The General Assembly, in transmitting this revised and amended
 ‘overture for regulating the due execution of the act of Assembly on
 ‘the calling of ministers, now passed into a standing law of the Church,
 ‘think it of importance that *the people* of the parishes in Scotland
 ‘should *not be misled* as to the *nature* and *effect* of that act. It gives
 ‘to them a negative voice against the intrusion of any minister into
 ‘the parish, whom they are *compelled*, under the *solemn sanction* of
 ‘*their conscientious belief as Christians, uninfluenced by any extraneous consideration*, to declare to be unfit for the ministry in that
 ‘parish. But the act is not intended to confer any rights of a different nature; and any *attempt to wrest it to other purposes*, must defeat its object, and injure the fair interests of the people, which it is
 ‘meant to protect. All *canvassing and caballing*, therefore, for *ob-*
 ‘*taining the appointment of a particular person to be minister*, and all

‘ combination beforehand for that purpose, are inconsistent with the principle of the act, and ought to disable every man who acts with a due regard to his Christian character, whatever may be his opinion on the law of patronage, from conscientiously declaring in the terms which may be required of him. The act has been proposed, and, after much deliberation, passed by the whole Church, for the benefit of the people, according to the view taken by the movers of it, of their rights under the existing law. But, in order that it may have every chance of producing such benefit, it must be *fairly acted* on by the patrons, the *Presbyteries*, and the *people*,—each party using the rights, and discharging the duties belonging to each, with the honest and single purpose of obtaining a good and faithful minister for the parish. It is *only* when this *spirit shall duly influence all the parties*, that any measure devised by the General Assembly of the Church can be expected to accomplish the great ends for which it is intended—the spiritual edification of the people, their peace, happiness, and prosperity, and the strength and stability of the Church of Scotland.’*

In the course of this Letter, I shall have occasion to mention some instances of the ‘extraneous considerations’ which, *after* the date of this admonition, were shewn to have full scope in parishes, and of the ‘canvassing and caballing’ for the purpose mentioned, which have been unequivocally displayed. Of the evils which were experienced in the course of the very *first* year, the necessity for admonition in such terms, is sufficient proof.

But it is grievous in the present day to find, that the General Assembly should, notwithstanding this admonition, think that they were entitled, as a Church, to repose an uncontrolled power of rejection in their people, in the conviction that *human nature might be safely relied* upon for the right exercise of that power, and that they were warranted to trust to the due influence of the pious motives which they here recommend and enjoin:—nay, so well entitled to rely on the existence and influence of that spirit *throughout all the parishes* in Scotland, as to hold it improper to inquire into and ascertain, upon due allegations, the existence of those motives and practices which the Church declared ought to disable individuals from conscientiously rejecting the presentee. The individual might be rejected, owing to the influence of the causes adverted to—notorious to the Presbytery—creating a scandal in the Church—encouraging similar instances elsewhere—excluding a faithful pastor:—Yet the Church is not to interfere; Her superintendence of her people is, in *this* respect, to be suspended. Her discipline and jurisdiction in abeyance: in this particular, inquiry and censure are to be silent: The people have a right, for which they are not accountable to the Church: And the latter has told them, that they are irresponsible, and that the Church is not to inquire into their proceedings.

* Acts of Assembly, 1835, p. 32.

That any such procedure as a *veto* had at any time, under the present constitution of the Church, or indeed even when patronage was, by the act 1690, transferred to heritors and elders, been known or practised, was never seriously alleged. Whatever may be said as to the 'fundamental principle' of non-intrusion against the will of the people, having been asserted by the clergy at different periods, it cannot be disputed by any one acquainted with the history of Scotland, (independent of the weight due to the concurrent opinions of the Court and House of Lords), that a power on the part of a majority of a congregation, to reject peremptorily, and as matter of absolute right, the patron's presentee, was perfectly new.

But it may be satisfactory to your Lordship to know the progress of the discussion (limited to two years) which gave rise to the act of 1834. And it is equally curious and instructive to see how speedily, in the course of agitation, the minds of able and intelligent men become reconciled to the maintenance of notions and plans, which, when first propounded, they considered as both novel and extravagant. In 1832, the notion of a *veto* was a perfect novelty to Lord Moncreiff, who, in 1834, moved in the Assembly the law and regulations which I have already quoted and referred to.

In the year 1832 it was first resolved to revive the old questions in the Church as to the *concurrence* or *consent* on the part of the people by a Call to the intended pastor, which should be required before a presentee was settled; and a number of propositions or overtures were sent to the Assembly by different Presbyteries respecting *calls*, (the distinction between which and the *Veto* all churchmen now admit). After some discussion, a motion was made for a committee to consider these proposals.* The great bulk of them suggested plans or expressed opinions tending to require express *concurrence* by a call, as necessary to constitute the pastoral relation; and the debate turned on the propriety and expediency of new regulations as to calls, for that purpose.

One gentleman, (my friend Mr. Whigham), predicting with great sagacity what would be the result if such schemes were countenanced, argued that the *tendency* of the proposals and of the speeches went much further; that either a *Veto* or *abolition of patronage* must follow from the sentiments expressed, however such results might then be disclaimed. Lord Moncreiff spoke shortly at the close of the debate; stated that it would have been a great relief to his mind if he could be relieved from the necessity of considering these overtures, but being sent up to the Assembly, they must be considered; that he thought Mr. Whigham's argument misplaced, as no such objects as either a *Veto* or abolition of patronage were in view: and that his account of the objects of the several Presbyteries was exaggerated, and went on thus:—'What is the next point in his speech?' He said that those

* Report of Debate, 24th May 1832. Whyte, Edinburgh; Longman, London.

'who wished to remit these overtures to a committee maintained that there is or ought to be a veto in the majority of the congregation. I have not heard this maintained.'*

(Mr. Whigham here said, 'Look at the overture from Auchterarder.') Lord Moncreiff continued:—'Sir, the overture from Auchterarder may go further than the others; but the question before the House is not whether you approve of that or not. The proposition maintained is this, that we shall take the subject of the overtures into consideration; and considering it to be of importance, as recommended by the Synods and Presbyteries, appoint a committee to report, and that another Assembly shall afterwards determine upon the effect of the whole. The real proposition maintained, and the only one that can be maintained, is this, (a very plain proposition surely), that *that which is the law* (alluding to calls) *shall be put in force*; and I humbly think, that in order to determine this, it is very unnecessary to go back to the details of the origin of the rights of patronage.' And then followed, not an argument,—for his Lordship said he meant to reserve his opinion,—but his doubts whether, to some extent, *consent or concurrence* at and by the call was not required, and still necessary, notwithstanding the act of Queen Anne:—Concluding, however, with again declaring, that it would have been more satisfactory had the question not been raised.

The political agitations of 1832, which created so much restlessness in the minds of people on all subjects, seemed to produce a corresponding fever for agitation among members and especially the ministers of the Church, and a restless desire that something must be done in the Church—a notion that a new order of things was necessary. And the advisers of the government of that day seemed to think, that popularity would be gained if they signalized themselves by encouraging such changes. Dr. Chalmers has announced (in the recent debate in the last Assembly) 'that his Majesty's law officer in Scotland,' meaning, I presume, Mr. Solicitor-General Cockburn, who was a member of Assembly and voted for his motion,—was a party to the preparation of the measure which he brought forward in May 1833; and that his own conviction of the incompetency of that measure on the part of the *Establishment*, in reference to the law of the land, was overborne by that high authority. On the importance of this acknowledgment of Dr. Chalmers's own opinion, I shall afterwards make a remark.

The terms of Dr. Chalmers's motion in 1833 are very singular, when contrasted with the subsequent Veto carried in 1834, and the recent proceedings of the Assembly in regard to the Veto. The contrast will shew how singularly the views of parties in the Assembly vary in a short time on the nature and extent of the 'fundamental principle' for which they are contending, and as to the rights of the people on

* Report, p. 90, of debate in Assembly, 24th May 1832.

the one hand, and the duty of the Church on the other, respecting the settlement of ministers.*

Dr. Chalmers's motion in 1833 was, 'That the General Assembly having maturely weighed and considered the various overtures now before them, do find and declare that it is, and has been ever since the Reformation, a fixed principle in the law of this Church, that no minister shall be intruded into any pastoral charge contrary to the will of the congregation; and considering that *doubts and misapprehensions have existed on this important subject, whereby the just and salutary operation of the said principle has been impeded*, and in many cases defeated, the General Assembly further declare it to be their *opinion*, that the dissent of a majority of the male heads of families *resident within the parish*, being members of the congregation, and in communion with the Church *at least two years previous to the day of moderation*, whether such dissent shall be expressed or without the assignment of reasons, *ought to be of conclusive effect in setting aside the presentee, (under the patron's nomination), save and except where it is clearly established by the patron, presentee, or any of the minority, that the said dissent is founded in corrupt and malicious combination, or not TRULY founded in any OBJECTION PERSONAL to the presentee, in regard to his ministerial gifts or qualifications, either in general, or with reference to that particular parish; and in order that this declaration may be carried into full effect, that a committee shall be appointed to prepare the best measure for carrying it into effect accordingly, and to report to the next General Assembly.*'

Your Lordship will at once perceive the *great and essential distinction* between this motion and the Veto act of next year, which we are now told the Church must enforce and adhere to, as part of its unquestioned constitution—enforce and adhere to, in its terms, to *its full extent*, without *inquiry* as to the grounds on which the people (it may be, communicants only of a few weeks' standing) exercise their *irresponsible right* of rejection. The right and duty of the Presbytery to inquire into the grounds of the objections was (though awkwardly, yet to a considerable extent) saved by the motion of 1833. The power and duty of the Church to ascertain whether there was *truly any objection personal to the presentee*, either in general or for that particular parish, was preserved, if the matter were *stated and proved* to them.

Observe the importance of that *principle* (for surely it is matter of deep principle) of distinction between the view taken in 1833 by the author of the veto, respecting the relative position of the Church to the people, and of the latter to the patron and presentee, and the view on which the motion of 1834 was framed. That 'the dissent was not *truly founded in any objection personal to the presentee, in regard to his ministerial gifts or qualifications, either in general or in reference to that particular parish.*' What a distinction here! What a reservation of the

* Report of Debate, May 23, 1833. Edinburgh, Hamilton; London, Simpkin and Marshall.

duty and province of the Church ! How different from an absolute *right* to reject, without the competency of inquiry into the grounds or motives of the rejection !

Again, this motion allowed it to be proved, that the dissent was founded in corrupt and malicious combination,—an inquiry which would have struck at scenes of caballing and canvassing, to which, in the note to his speech in last Assembly, Dr. Chalmers again reverts, as very likely to occur, and which, he says, ought to lead to the disfranchising the whole parish. I shall have occasion, in a subsequent branch of the Letter, to give an illustration of the importance of such a check in an instance which has already occurred.

Honestly and fairly interpreted, this proviso would have been a great practical check on the exercise of the power *then* proposed to be bestowed on the people. And on the other, the knowledge of the existence of this power of review would have operated beneficially on the spirit in which the dissent would have been exercised. While the publicity attending inquiry before the Church Courts, the right of appeal from the decision of the Presbytery to the Synod or to the Assembly, and the controul of public feeling against unjust decisions in the case of meritorious individuals, would have secured, to a considerable extent, the Church and the interests of religion against the risk of many unjust and capricious rejections.

The importance of this proviso and of the principle on which it proceeds, is manifest.

The real meaning and principle of the motion with this proviso, was well explained by Lord Moncreiff in the debate (p. 134) to be this :—‘ The principle seems to me to be, that the Presbytery itself, looking solely to the spiritual interest of the parish, and the good of the Church, are to take the matter of the dissent or dissatisfaction of the people into consideration; and if it be such as to raise a certainty or strong probability that the man, however well qualified for other situations, will not be a useful minister for that parish, to hold him as on that account unfitted for it, and prevent his intrusion into it. Doubts and difficulties in this may be raised in cases where there is division or difference of opinion. But the principle will be clearly seen, if the case be supposed, that not a majority merely, but the whole congregation, without one exception, declare that they cannot accept of the presentee for their minister. The ecclesiastical rule is, that he shall not *be intruded* on them contrary to their will; and the only practical question which remains is, what shall be considered as a sufficient expression of the will of the congregation generally against the presentee? Now, if this restraining principle can be made operative at all, I ask how it can be so, otherwise than by giving effect to the will of the people negatively, in some manner expressed, and how it can be doubted that the General Assembly has power to declare what shall be considered as sufficient evidence of such being the will or sense of the congregation?’

Again, p. 135,—‘ The meaning here is perfectly plain and simple. The dissent of the majority shall be taken as conclusive, without necessity of *their* stating or verifying *specific* objections, *unless* it be

‘proved against them that they are not *truly and honestly acting on a real dissatisfaction with the man as a minister for that parish, but are moved by other motives and unfair designs*. It is in this point precisely in conformity to what I conceive to be the clear meaning and effect of the act 1649. But, at any rate, there can be no difficulty in understanding what is intended by it; and it will be observed, that the words are not *conjunctive*, but *alternative*, either founded in malicious combination, or *not truly founded* in objections to the ministerial fitness of the presentee. It is true that the *onus* is thrown on the other party; and it has been said that this is a heavy *onus*. I grant that it is so. It is not meant to be a very easy *onus*, by which the *dissent* of the majority of the congregation is to be overcome; but the *clause is nevertheless extremely important to meet the cases which may easily be conceived*,’ (!—what an important and instructive admission; how prophetic as to the necessity of the admonition in 1835)—‘of *groundless and unfair opposition, originating in the desire of serving another candidate, or directed to very different ends* from the satisfactory settlement of the parish.’

The evils which in 1833 it was so easy to conceive, Lord Moncreiff left without a remedy in 1834. The power, on which in 1833 it was so ‘extremely important’ to impose this great practical check, he bestowed in the latter year, in the most absolute and irresponsible form. Is the Church entitled to demand from the State, that *that* is to be deemed matter of *right* which, in 1833, the Church itself held to be subject to any controul they chose to impose—it being matter of expediency what the controul should be?

Clear it is, that the judgments of Presbyteries,—honestly doing their duty under *this* motion of 1833, according to the real justice or exigency of each case, and the degree of partiality or improper motives mingling in the motives leading to rejection;—according to the necessity which, in any case, or at any particular turn of religious opinions or popular errors, might require the interposition of the Church courts, would have imposed an important restraint through the medium of the Church courts, on unreasonable and capricious rejection by the people of individuals, against whom no objection truly lay. The Church courts would have been entitled to inquire (on a complaint that the rejection was not well founded,) what the grounds of objection really were. If none could be stated or explained to them, personal to the presentee; none to ministerial gifts and qualifications,—matters which imply inquiry and trial and judgment by the Church courts,—then the veto was not intended to be a bar to his appointment.

On referring to the evidence given before the Patronage Committee of the House of Commons in *spring* 1834, it will be seen that several leading members of the Church advocating these or corresponding charges, expressed their decided opinion, that *this proviso* in Dr. Chalmers’s motion of 1833, was an *important and necessary* restraint upon a power which ought not to be bestowed without such check.

And when we are called upon now to acknowledge that, according to a fundamental principle of the Church of Scotland, the majority

of the communicants of a congregation are *entitled* to reject a presentee, *simply and solely because they do not like him*,—that it is inconsistent with the rights of the Christian people to require them to justify in any circumstances a rejection of the presentee, for which their dislike is both a sufficient, and, on religious grounds, a conclusive reason,—it is at least satisfactory to know that the very year before this motion was carried, Dr. Chalmers himself had proposed and contemplated, as a *necessary* and *constitutional* ecclesiastical check on the exercise of any such privilege by the members of a congregation, that the Church courts should, upon objection offered, ascertain whether there really existed, after all, any objection personal to the presentee,—any objection to ministerial gifts or qualifications,—or whether the ground of rejection was not unreasonable, as regarded the individual, or originated in a desire for some other person, or in an objection to any appointment by a patron.

The motion of Dr. Chalmers in 1833, was founded on a principle totally opposed to the Veto law of 1834. It took a different view of the duties and functions of Presbyteries ;—it did not acknowledge any absolute *right* on the part of the people to reject, without reference to the opinion of the Presbytery as to the grounds of such rejection ;—it did not propose that the Church should legislate on the estimate of human nature, on which the law of 1834 was framed. The two schemes are totally different.

Dr. Chalmers, in his speech in *last* Assembly, in the course of commenting on my argument in the Auchterarder Case, says, ‘ Now, if there be one thing of which we are more confident than another, it is, that here we have all *philosophy* upon our side, and *all that is sound in the experience* of human nature. Not in Christianity alone, but in a thousand other subjects of human thought, there may be antipathies and approvals resting on a most solid and legitimate foundation, not properly therefore without reasons, but reasons deeply felt, *yet incapable of being adequately communicated*. And if there be one topic more than another on which this phenomenon of the human spirit should be *most frequently* realized, it is the topic of Christianity—a religion the manifestation of whose truth is unto the conscience ; and the response or assenting testimony to which, as an object of instant discernment, might issue from the deep recesses of their moral nature on the part of men with whom it is a felt reality, able therefore to articulate their belief, yet not able to articulate the reasons for it.’

Whether there is really any *sound philosophy*, or rather, as *I* should say, any sound principle of *Christian doctrine*, in admitting that the people—who are to be instructed, warned, reprovèd, and incited to repentance by the *ministers of the gospel, as the ambassadors of its Divine Author*, do, in the opinion of the Church, possess (to the extent which the power given by the Veto implies) such a discernment of and love for gospel truth, that they will never reject a faithful, pious, and zealous preacher, and never reject except from pious and proper motives ;

—whether, in acting on this estimate of ‘the hearers of the word,’ there is either sound philosophy or sound Christian doctrine, I shall afterwards consider. But if there is any *false* philosophy or *false* Christianity in the notion that congregations,—being in the view of the gospel and of the Church, composed of corrupt and sinful men,—to whom the truth is often unpalatable, in whom spiritual or intellectual pride is most likely both to be cherished and indulged, when desired and encouraged to sit in judgment on the qualifications of their proposed ministers, as better qualified to decide than even the ministers of the Church;—with whom an infinity of worldly motives may operate, when such a point is submitted to numbers, affected, as it may be, by dislike to the individual or to the law which admits of a patron’s nomination, or by desire for another person—by the desire to exercise irresponsible power,—by the affectation of exhibiting discernment and preference in the act of rejecting at least the first person presented to them, and not just registering the *patron’s choice* as that which is to suit *them*;—if there is false philosophy or false Christianity in supposing that, when entrusted with such power, without controul or responsibility, and without being called on to explain or justify their objections, men in general (for one may speak of the majority of congregations) are very likely to err, and very likely to be swayed by prejudice, and to commit injustice—at least the motion in 1833 of Dr. Chalmers shows that he then thought there was good ground for subjecting these vague and indefinite repugnances of congregations to the judgment and investigation and decision of the Church courts. And I think there is little difference, in point of philosophy, between the expressions of counsel to which he refers, and his own motion in 1833, though he forgets that *I* was disputing that *sound law* admitted of these vague repugnancies, while *he*, going far beyond his original motion, is *now* defending them on the wider ground of ‘sound philosophy.’

In the Appendix I have inserted the counter declaration, as expository of the law and constitution of the church, which Dr. Cook moved and carried in 1833, in order to record the views as to the powers and duties of Presbyteries, in regard to the trial of and objections to presentees, on which he and those who for eighty years and more, had guided the deliberations of the Church, had conducted her deliberations and advised her judgments, (often, of course, with difference of opinion as to the propriety of the decision in the individual case:)—And I should wish any impartial observer of human nature, any one sincerely impressed with a sense of the erring motives which bias and influence human actions, and of the importance of securing learning, talent, and independent character from the effect of prejudice or unfair opposition, to say, what greater or more effectual system of examination, or what better security against improper nomination could be devised, with a view to the selection of pious able and qualified persons, than this system ensured:—Or whether a rejection by numbers, without cause or reason assigned, of the person named by the party authorized and entrusted by law to nominate and present, (for that is the law to which the veto applies,)—a rejection which excludes the power of the Church courts to

consider the fitness of the person presented,—is more likely to lead to a sound, judicious, and discriminating choice of ministers.

The Veto act, however, as passed in the subsequent year, lays aside, nay, treats as unwarrantable and inquisitorial,—as inconsistent either with the duties of Presbyteries or the rights of congregations,—the notion that the will and decision of the *latter* should in any case, if expressed by a majority, be reviewed or inquired into by the wisdom and authority and experience of the Church, and gives, as we have seen, the power of *peremptory rejection*, as a matter of right, of sacred church principle, forming part (forsooth) at *all* times of the constitution of the Church of Scotland.

The Veto act of the Assembly of 1834 directs that Presbyteries, before taking the presentee on trials and judging of his qualifications, shall ascertain if the congregation choose to accept the person presented by the patron or not; and if the majority of the male heads of families, (a new ‘standing’ in the Church), being communicants, reject him, then the Presbytery, as a matter of course, are to refuse to take him on trials, and to reject him at once, and to intimate the rejection to the patron.

The statute 1592, establishing Presbytery as the Church polity of the national Church of Scotland,—the great charter of the Church,—declares,* ‘And therefore ordains all presentations to benefices to be direct to the particular presbyteries in all time coming, with *full power to give collation thereupon*; and to put ordour to all maters and causes ecclesiasticall within their boundes, *according to the discipline of the kirk*; providing the foresaid *presbyteries be bound and astrected to receive and admit quhatsoever qualified minister presented be his majesty or laick patrones.*’

The Act 1711, of the British Parliament, (repealing a Scotch statute which had established a different mode of nomination,)+ provides and enacts ‘That in all time coming, the right of all and every patron or patrons to the presentation of ministers to churches and benefices, and the disposing of the vacant stipends for pious uses within the parish, be restored, settled, and confirmed to them, the aforesaid acts, or any other act, statute, or custom to the contrary in anywise notwithstanding; and that from and after the first day of May 1712, it shall and may be lawful for her majesty, her heirs and successors, and for every other person or persons who have right to any patronage or patronages of any church or churches whatsoever in that part of Great Britain called Scotland, (and who have not made and subscribed a formal renunciation thereof under their hands) to present a qualified

* 1592. Report, vol. ii. App. p. 8.—The statutes are here quoted for the sake of reference,—of course I have no intention of discussing any *legal* point decided by the House of Lords.

† App. p. 13.

‘minister or ministers to any church or churches whereof they are patrons, which shall, after the said first day of May, happen to be vacant; and the Presbytery of the respective bounds shall, and is hereby obliged to receive and admit in the same manner such qualified person or persons, minister or ministers, as shall be presented by the respective patrons, as the persons or ministers presented before the making of this act ought to have been admitted.’

How it could be considered within the competency of the National Church, instituted and regulated by these statutes, of itself to bestow on any third party, on the communicants, a right peremptorily to reject the presentee (though qualified) whom the patron might present, and to refuse to take such person on trials, so as to form their own opinion as to his qualifications, does appear most extraordinary to any one reviewing the progress of this singular epoch in the history of an Established Church. To your Lordship, on whom, in conjunction with Lord Brougham, devolved the responsibility of advising the judgment of the House of Lords, which finally, and in the last resort, decided that such a measure by the General Assembly was incompetent and illegal, it will be some satisfaction, after having honestly and assiduously directed your mind to the consideration of this important constitutional question, to know that Dr. Chalmers has announced to us that his own deliberate and decided opinion as a Churchman *was*, and *continued to be*, that the Church had not, *as an Establishment*, the right and power to effect, by its own authority, the change he devised even by his modified motion of 1833, and that even then the Church was bound to apply to Parliament to introduce or sanction the change. Another speaker (Dr. Burns) in support of the motion of this year, declared that he never had a doubt that, in the actual state of the law, the decision of the Court must be what it was; and in his evidence, before the Patronage Committee of the House of Commons in the spring of 1834, stated that conviction. There were many other Churchmen who, like Dr. Chalmers, held the same opinions, but who probably yielded their own views in deference to Dr. Chalmers himself.

Dr. Chalmers, it has been already noticed, has publicly stated, in the recent debate in the General Assembly, that the plan of the Veto act was arranged with the Law Officer of the crown under Lord Grey's government, and that though himself impressed with the conviction that it was beyond the power of the General Assembly, he was urged and encouraged to bring it forward by his advice and opinion.

The statement thus made by Dr. Chalmers opens up a singular view of the policy which, with a view to temporary popularity, or for the purpose of signalizing the new era in Scotland, by the introduction of changes in the Church as extensive as those effected in the State, did not scruple to urge on Dr. Chalmers to measures from which he shrunk, and which nothing in the state of the Church in any degree required. Dr. Chalmers's speech in 1833, in introducing the proposal of a veto, seemed fully to admit, that at no period of the Church had patronage been so well exercised, and the causes of com-

plaint been so few,—that there was in fact no call in the circumstances of the Church for any such change; and one-half of his speech was an earnest defence of patronage, and a powerful and most emphatic denunciation,—perhaps one of the most effective and most elaborate efforts of his masterly mind,—of the evils of the popular election, and of the mischievous practices which it would open up to the ‘village demagogue.’ The members of Assembly who heard the speech must well recollect the surprise which this part of it occasioned, containing, as it did, an answer to the very proposal with which he concluded. But his acknowledgment that he was overborne, as to that measure, by the opinions and intentions of others, and had brought forward a measure which he has admitted he did not think the Church could competently pass, and which of necessity, therefore, was no part of the constitution of the Church of Scotland, sufficiently explains the singular contrast between his speech and his motion.

Notwithstanding the opinion which Dr. Chalmers has told us he expressed to his coadjutors in supporting the motion in 1833 and carrying through the Veto act of 1834, a delusion seems to have had possession of the minds of its other promoters, as to the utter impossibility of the legality of the measure ever being tried in a court of law.

The General Assembly was well warned of the hazardous nature of the game they were about to play, and of the certainty of involving themselves in legal discussions as to the incompetency of the measures they were about, in so precipitate a manner, to sanction. The two Heads of the Supreme Courts, members of the Assembly, expressed their opinions against the legality, as recorded by their votes, of the measures. Many other lawyers gave the same advice. And, regarding the measure of 1834 as alike mischievous and illegal, I rejoice that my last act as a member of Assembly was to record, in my protest, reasons of dissent, which, so far as they related to the legality of the measure in a constitutional light, the judgments of the Court of Session and House of Lords have in express terms affirmed, and which, as regarded the practical working of the measure, have been already but too faithfully realized.

In spite of every warning, the Assembly plunged into this most serious and difficult and complicated measure, in the persuasion apparently that no one was to question its legality, or to oppose its operation. Lamentable and unaccountable delusion! The summer of 1834 gave rise to several rejections, marking, in the most unequivocal manner, the gross injustice and cruel caprice with which this irresponsible power of rejection,—shielded as it was from all blame, by being referred to the conscience of every man, as the only judge (in the *opinion* of the Church itself) of the manner in which it is exercised,—would be employed.

Among others, the presentee to Auchterarder,—possessing the highest testimonials from the Presbytery which had licensed him, and where

he had officiated,—being thus vetoed, raised an action, in conjunction with the patron, against the Presbytery.

That action contained the following conclusions, in terms of which the pursuers asked for decree :*—‘ Therefore, it ought and should be found and declared, by decree of the Lords of our Council and Session, that the pursuer, the said Robert Young, has been legally, validly, and effectually presented to the church and parish of Auchterarder : That the Presbytery of Auchterarder, and the individual members thereof, as the only legal and competent court to that effect by law constituted, were bound and astricted to make trial of the qualifications of the pursuer, and are still bound so to do ; and if in their judgment, after due trial and examination, the pursuer is found qualified, the said Presbytery are bound and astricted to receive and admit the pursuer as minister of the church and parish of Auchterarder, according to law : That the rejection of the pursuer by the said Presbytery, as presentee foresaid, without making trial of his qualifications in competent and legal form, and without any objections having been stated to his qualifications, or against his admission as minister of the church and parish of Auchterarder, and expressly on the ground that the said Presbytery cannot, and ought not to do so, in respect of the veto of the parishioners, was illegal, and injurious to the patrimonial rights of the pursuer, and contrary to the provisions of the statutes and laws libelled.’

The Court of Session pronounced the following judgment (the case having been decided by the whole Court) :† ‘ *Edinburgh, March 8, 1838.*—The Lords of the First Division having considered the cases for the Earl of Kinnoull and the Rev. Robert Young, and for the Presbytery of Auchterarder, with the record and productions. and the additional plea in defence admitted to the record, and heard counsel for the said parties at great length, in presence of the judges of the Second Division and Lords Ordinary, and having heard the opinions of said judges, they, in terms of the opinions of the majority of the judges, repel the objections to the jurisdiction of the Court, and to the competency of the action as directed against the Presbytery : Further, repel the plea in defence of acquiescence: Find, That the Earl of Kinnoull has legally, validly, and effectually exercised his right as Patron of the church and parish of Auchterarder, by presenting the pursuer, the said Robert Young, to the said church and parish : Finds, That the defenders, the Presbytery of Auchterarder, *did refuse*, and continue to refuse, to *take trial of the qualifications* of the said Robert Young, and have rejected him as presentee to the said church and parish, on the sole ground (as they admit on the record) that a *majority of the male heads of families, communicants*, in the said parish, *have dissented*, without any reason assigned, from his admission as minister : Find, That the said Presbytery, in so doing, *have acted to the hurt and*

* Appendix, p. 10. Report, vol. i.

† Report, vol. ii. p. 450.

‘ *prejudice of the said pursuers, illegally, and in violation of their duty, and contrary to the provisions of the statutes libelled on; and, in particular, contrary to the provisions of the statute, 10th Anne, c. 12, entitled, “ An Act to restore Patrons to their ancient rights of presenting ministers to the churches vacant, in that part of Great Britain called Scotland;” in so far repel the defences stated on the part of the Presbytery, and decern and declare accordingly; and allow the above decree to go out and be extracted as an interim decree; and with these findings and declarations, remit the process to the Lord Ordinary to proceed further therein, as he shall see just.*’

The judgment of the Court having been intimated to the Presbytery on the part of Mr. Young, in order to require them to comply with the same, they referred the matter to the General Assembly, to meet in May 1838, for advice and direction; and the Assembly resolved to appeal to the House of Lords.

The House of Lords, after most ample arguments, affirmed the judgment of the Court of Session,—your Lordship and Lord Brougham declaring, that you had never entertained a doubt upon the point.

To complete this part of the narrative, I may mention, that much was said as to the Court of Session not having pronounced judgment, in terms of another part of the conclusion of the summons, ‘ That the Presbytery, as the only legal and competent court to that effect, by law constituted, were *bound and astricted to make trial of the qualifications of the pursuer, and are still bound so to do; and if in their judgment, after due trial and examination, the pursuer is found qualified, the said Presbytery are bound and astricted to receive and admit the pursuer as minister of the church and parish of Auchterarder, according to law.*’ The reason was plain. It was not to be presumed, that after the Supreme Court had declared the rejection, without trial, to be illegal, contrary to the statutes, and wrongfully in violation of their duty, it could be necessary in a question with a Church Court in the present age, to proceed further. It was fitting and proper to presume that they would at once repair the wrong they had done, and fulfil the requisites of the statutes thus authoritatively declared. It was very plain to any one who attentively considered the ground of the judgment, whether as stated in the Court of Session or in the House of Lords, that a judgment to the effect of the conclusion already quoted would follow as a matter of course, if the Presbytery refused to obey the judgment on the points already determined. True, it was said that the Court of Session durst not go further, nay, that they had refused to go further; and that this part of the Summons was no longer open to the pursuers.

It is sufficient to say, that the pursuers, (after getting the judgment of the House of Lords applied,) moved the Lord Ordinary to *pronounce decree in terms of the above conclusion of the Summons*, as a necessary conclusion from the judgment of the House of Lords; and that the Presbytery did not venture to oppose that demand.

The judge accordingly found, decerned, and declared (in terms of the Summons), that the *Presbytery are still bound and astricted to make*

trial of Mr. Young's qualifications ; and *if*, in their judgment, after trial and examination in common form, *he shall be found to be qualified, to receive and admit him as minister* of the church and parish, to which he has been presented, according to law.

In order that your Lordship may be fully aware of the spirit in which these proceedings of the Church were conducted, and of the systematic determination to exercise and assume *power*, (without regard to any impediments or legal restraints whatever), in order to establish the supremacy of ecclesiastical authority over every other, I must now advert to some very remarkable proceedings, which have been going on during the progress of the Auchterarder Case, and which illustrate more forcibly than even the Auchterarder Case, the extremes to which the pretensions of the Church will carry them,—the *practical* consequences of their claims for independent jurisdiction,—and the encroachments on private right, the disregard of civil tribunals, and the consequent confusion and disorder, to which these claims necessarily lead.

In 1835, an application was made to the Crown, (the Patron), by the late incumbent of the parish of Lethendy, with the concurrence of the heritors and the parish generally, for an Assistant and Successor. And he applied for the appointment of the gentleman acting as his assistant. This application was supported by a petition signed by 107 male heads of families and communicants. The Crown appointed the individual in question in the usual style and form. The Presbytery concurred in the arrangement, which, as there was no actual vacancy, they might have refused to do, and 'sustained the presentation' in favour of Mr. Clark, the gentleman in question. The total roll of communicants seems to have been reduced in numbers below 107, by the time the Presbytery came to apply the veto,—the person applied for being vetoed by 53, (being an actual majority), of which number *forty had applied in the petition for his appointment*. Various proceedings took place in the Church Courts. The old incumbent died in January 1837. On the 11th of March, the gentleman (Mr. Clark) holding the Crown presentation, raised an action (the same as in the Auchterarder Case) against the Presbytery of Dunkeld, &c. The Crown was not called ; for nothing, of course, could apprise him that the Crown, after granting a presentation in his favour, would or could interfere in the matter, much less, during the dependance of the Auchterarder Case, assume the legality and competency of the Veto.

But, on the 12th of June 1837, another presentation was actually granted by the Crown in favour of another person, during the dependance of the action, to try the rights of the first presentee by the Crown. Whether this was deliberately and advisedly done on the part of the advisers of the Crown, is not known. I should think that the circumstance of Mr. Clark's action could not have been known. If it was, the proceeding was most extraordinary and unexampled ; and this, probably inadvertent, certainly ill-timed, presentation, was immediately misunderstood and misrepresented,—was held forth as if the Crown, in the full know-

ledge of the state and whole bearings of this great constitutional question respecting the Church, had deliberately resolved to maintain and enforce the Veto act, so far as in their power; and the Presbyteries throughout the country, and the next Assembly, were induced and taught to believe, that they had thus this source of support and encouragement in the measures they subsequently adopted, and this ground of expectation that the judgment of the Court would be reversed.

The Presbytery held a meeting, (summoned not in the usual manner), to *expedite* the settlement of the new presentee, and, by a majority, resolved to proceed, notwithstanding the dependance of Mr. Clark's action, to appoint this second presentee (Mr. Kessen) to preach as soon as possible.*

As soon as Mr. Clark got notice of these proceedings, he applied for and obtained (August 7, 1837) an Interdict (or Injunction) restraining and prohibiting the Presbytery from giving effect to the second presentation; and also against Mr. Kessen, from claiming any secular benefit under the same.

The Presbytery then appeared, and declined the jurisdiction of the civil Court 'in a question entirely of an *ecclesiastical* nature,'—though the short note, in which this plea was stated, proceeded upon the statement, that Mr. Kessen had a valid, regular, and effectual presentation from the Crown, under which they were entitled and bound to proceed, while Mr. Clark had not;—questions wholly of civil right in any point of view.

In *defiance of the interdict*, the Presbytery proceeded with Mr. Kessen's trials. Mr. Kessen then appeared in the declarator raised by Mr. Clark; and both he and the Presbytery appeared in the further discussion as to the interdict, maintaining that it should be recalled.

The Presbytery then thinking it more prudent that their proceedings should be backed by the Assembly, referred the case to the latter body, meeting in May 1838, for advice as to the course they should follow. The matter was handed over to the Commission.

The Commission of Assembly approved of the conduct of the Presbytery, and resolved, 'That *admission to the pastoral charge of a parish* and congregation is *entirely an ecclesiastical* act, subject to the jurisdiction of the ecclesiastical Courts; *ordain* the Presbytery of Dunkeld to *proceed without delay to the induction* of the Reverend Andrew Kessen, to be minister of the united Parishes of Lethendy and Kinloch, *upon the call in his favour*, according to the rules of the Church, and to report their diligence therein to the meeting of Commission in August; and, *quoad ultra*, supersede consideration of the matters brought up by the reference till the said meeting of Commission, or the next stated meeting thereafter.†

Your Lordship will at once perceive the extraordinary character of

* See Report of Lethendy Case, by Mr. C. Gordon Robertson, advocate. Blackwood, Edin. 1839.

† 30th May 1838. Report, p. 12.

this proceeding, marking so forcibly the practical consequences of the views, as to ecclesiastical authority and independence, on which the Church is beginning to act.

An interdict had been granted against the Presbytery giving effect to the presentation in favour of Mr. Kessen, during the dependence of the action raised against them. Whatever may be the questions involved in that action, it was one regularly in Court. Mr. Kessen claimed the benefit of a deed of presentation in his favour: he appeared as a *presentee*. The interdict was granted against the Presbytery proceeding to give effect to that, and against Mr. Kessen claiming the stipend, manse, or glebe, or taking any step for any of the temporalities of the benefice. Yet the Commission of Assembly voted this (for such was practically the resolution, though purposely put in an abstract form) to be an ecclesiastical matter, and ordained the Presbytery to proceed (!) to induct Mr. Kessen, and that, forsooth, too, (so disingenuously was the matter stated), *upon the call in his favour*, as if they did not proceed upon the presentation, (the civil title), or as if they were already prepared to throw aside patronage altogether. Mr. Kessen was merely a *presentee*, claiming the benefit of patronage, and therefore to say that they meant to *settle him on the call*, as if the Crown had forfeited its turn to present, was a miserable disguise.

Mr. Clark immediately applied for and obtained* another interdict, (to prevent all doubt as to the meaning of the first) ‘to prohibit and interdict the said Reverend Andrew Kessen from *presenting himself* to the said Presbytery *for induction* to the office of the minister of the Church and united Parishes of Lethendy and Kinloch, upon the pretence of the alleged call in his favour, or on any other ground whatever; and likewise to prohibit and interdict the said Presbytery, and the said William Chalmers, Thomas Nelson, John Stewart, William Grant, Alexander Wilson, Michael Stirling, William MacRitchie, Thomas MacRitchie, John Robb, Robert Allan, Henry Henderson, Peter Drummond, Duncan Campbell, William Herdman, and Frances Gillies, the individual members thereof foresaid, *from inducing* the said Rev. Andrew Kessen. upon the pretence of the alleged call in his favour, or on any other ground whatever, and *from proceeding to his induction and settlement* as minister of the Church and united Parishes of Lethendy and Kinloch, on any pretence whatever, and from doing any act or deed prejudicial to the status, rights, and privileges conferred on the complainer by the letter of presentation in his favour, and act of Church Court sustaining the same.”†

The Presbytery referred the matter to the meeting of the Commission of Assembly in August 1838,—The Commission then found, ‘That the *supplementary interdict* granted by the Court of Session, at the instance of Mr. Thomas Clark, against the Presbytery carrying into execution the sentence of the Commission on the 30th

* June 4. Report, p. 12.

† Report, p. 13.

‘ day of May last, appointing them to induct Mr. Andrew Kessen to
 ‘ the pastoral charge of the said Parish, on the call in his favour,
 ‘ ought not to operate as any obstacle to their proceeding in the ex-
 ‘ cution of the said sentence, but that it is their duty to carry the
 ‘ same into immediate effect, by the performance of what the Commis-
 ‘ sion have determined to be a purely spiritual act, and in regard to
 ‘ which the Civil Courts CAN possess NO AUTHORITY. The Commission
 ‘ accordingly instruct the Presbytery of Dunkeld to meet at Dunkeld
 ‘ on Tuesday, the 21st day of August current, and take immediate
 ‘ steps for the ordination of the said Mr. Andrew Kessen, and proceed
 ‘ therewith without delay, in terms of the former sentence of Commis-
 ‘ sion, and to report their diligence to the meeting of Commission in
 ‘ November.’*

The Commission further, on the motion of Mr. Dunlop, found,
 ‘ That the Commission having farther taken into consideration the
 ‘ matters brought up by the reference remitted by the last General As-
 ‘ sembly, left undisposed of by the former meeting of Commission,
 ‘ which regard the conduct of the said Mr Thomas Clark, *in institut-*
 ‘ *ing legal proceedings*, and applying for the first interdict against the
 ‘ Presbytery, and also his conduct in applying for the second interdict
 ‘ against carrying into execution the sentence of the Commission, the
 ‘ Commission find, that while this last mentioned act on the part of
 ‘ the said Mr. Thomas Clark might be dealt with as affording grounds
 ‘ for a charge of a contempt of the Commission, it is *more expedient*
 ‘ that the proceedings to be adopted should bear reference to the grave
 ‘ charges which his whole conduct involves; and the Commission find
 ‘ that the several proceedings adopted by him, and above referred to,
 ‘ afford grounds for charging him with attempting to bring the juris-
 ‘ diction of this Church under subjection to the civil power in matters
 ‘ spiritual, contrary to the doctrines of the independent spiritual juris-
 ‘ diction of the Church, and of the sole headship of the Lord Jesus, on
 ‘ which the same depends,—in contravention of acts of the Assembly of
 ‘ this Church,—and in violation of his vows of submission, for the pur-
 ‘ pose of intruding himself into the office of pastor of a congregation,
 ‘ contrary to the will of the people, in opposition to the fundamental
 ‘ principle of the Church on that subject; and they remit to the Pres-
 ‘ bytery of Dunkeld to hold conference with the said Mr. Thomas
 ‘ Clark, and in the event of his not evincing due penitence for his con-
 ‘ duct, and withdrawing the legal proceedings instituted by him, to pre-
 ‘ pare a libel, charging him with the said offences,’ (!!) ‘ and to serve
 ‘ him with the same; for which purpose, the Commission grant warrant
 ‘ to officers of Court, and all other Church officers, to cite the said Mr.
 ‘ Thomas Clark to compare personally before the said Presbytery, at
 ‘ their ordinary meeting at Dunkeld, on the last Tuesday of this cur-
 ‘ rent month of August, to be served with a libel, should he not shew
 ‘ such penitence, and withdraw his proceedings’ (!!) ‘ as aforesaid;

* Report, p. 15.

‘instructing the Presbytery, should he fail to appear, to proceed as is usual in cases of contumacy.’*

As yet the Presbytery have not ventured to proceed to deprive Mr. Clark of his status as a licentiate, or to punish him ecclesiastically for the offence of trying his rights and the extent of the power of the Church, in a Court of law. Probably it has been thought that such a violent proceeding might operate unfavourably on the public mind, until the objects of the Church are fully gained, and their power recognised.

But the Presbytery, by a majority of one, *proceeded in defiance of the interdict, to settle and induct Mr. Kessen*. Hence, though Mr. Clark should gain his law-suit, and although, therefore, so far as the power of the Crown was concerned, it should be found that it could give Mr. Kessen no title, the latter is inducted, and wrong of the grossest kind done to Mr. Clark; or a still more serious question awaits the Presbytery—a reduction of their act of induction, as incompetent and illegal.

Mr. Clark complained to the Court, of this breach of interdict, against Mr. Kessen and the majority of the Presbytery.

The most necessary and important species of interdict or injunction is (as your Lordship well knows) that which is granted to restrain and prevent, during the dependance of a law-suit between two parties, steps being taken by either, by which wrong (it may be, irremediable wrong) may be done to the party who is ultimately successful.

In the main action the Court may find that it has no jurisdiction, or that on the merits Mr. Kessen is right, and that the case does not turn on that of Auchterarder. It may also find that the Interdict, which the Presbytery did not choose at first to oppose, ought not to have been applied for. But during the trial of such points, every system of jurisprudence *provides for the means of preserving matters entire*, if the Court thinks sufficient cause has been stated for such an injunction.

I need not enlarge on the confusion to society, on the injustice, on the invasion of private rights, that will ensue, if any Body in the state shall maintain and act on the plea, that even to *this* extent they will not obey the civil tribunals of the country—that its *injunctions* cannot affect or restrain them—that they may in the meantime do the thing prohibited, by reason of their alleged right to judge for themselves what is civil and what ecclesiastical.

Of all the points which have occurred in the course of these discussions, this was the plainest and the clearest.

Two of the judges, (Lords Moncreiff and Jeffrey) in considering what should be done on the complaint for *breach* of interdict, thought that they were entitled to consider the *merits of the action*, in respect of the dependance of which the interdict was granted; and that, when a party

* Report, p. 16.

complained of a breach of such an interdict, the title of the party, and the merits of the main cause, were put in issue. But the rest of the Court, including Lords Fullerton and Cockburn, who had dissented from the decision in the Auchterarder case, had no difficulty in finding, that an interdict or injunction granted by the Supreme Court, must be enforced, and that the Presbytery were guilty of a breach of interdict. Both of the learned judges last alluded to pointed out, that *Induction to a benefice* must be considered as a different matter from *ordination* as a minister of the gospel, and concurred in holding, that the injunction against induction must be enforced, and, if violated, the contempt of it punished.

The Presbytery and Mr. Kessen were ordered to attend at the bar of the Supreme Court, and were solemnly censured, as guilty of a breach of the interdicts in question,—a sentence most lenient, as respected the individuals, but marking the resolution of the Civil Court,—which was announced at the time of the censure,—to enforce obedience to the law, on any future occasion, in a very different manner.*

On these proceedings, as illustrating the practical and most dangerous consequences of the principles respecting their independent jurisdiction, which the Church have proclaimed, and the alarming results to society at large which always follow from ecclesiastical usurpation, it is unnecessary to comment. The facts speak for themselves. It was a renewal of the ecclesiastical proceedings of former times—in their worst spirit and form—and aiming at authority and *practical* power as formidable as any ever claimed by the Church of Rome.

In the present age, when such occurrences and pretensions are not anticipated, one is at first indisposed to believe, that a religious body, whose duty in an especial manner it is to inculcate and to practise civil obedience, could have perceived the full consequence of their own proceedings, or the open and *general* disregard to all law which they involve. But let it be remembered that there is no violation of law more marked or unequivocal, than wilfully setting at defiance an Interdict of the Supreme Court, on the assertion that law cannot affect or bind the body violating the Interdict. There is no state of things in the social system which can indicate greater disorder or a more complete disruption of all the bonds and restraints of law, than such an occurrence. What is there which Ecclesiastical Courts in the present day *can* do beyond the defiance of an Interdict, and expressly directing, for the attainment of their own ends, an act to be done in open violation of the decree of the Court enjoining the thing in the meantime not to be done? What is there which in former times was done by ecclesiastical authorities, proving more directly the resolution to put themselves above the law, and procure entire immunity for the exercise of any power they choose to assume?

* See Report. The opinion of the judges will be found to be most valuable to any one wishing to understand these questions. See particularly the opinions of Lords Medwyn and Cunningham.

In this state of matters, the General Assembly met in the month of May. The decision of the House of Lords on the appeal directed by the Church, necessarily forced itself upon their consideration.

After previous notice, Dr. Cook introduced a motion, with a preamble detailing the facts, to the effect,—‘That the act on calls, commonly denominated the Veto act, having been thus declared by the supreme civil tribunals of the country to infringe on civil and patrimonial rights, with which the Church has often and expressly required that its judicatories should not intermeddle, as being matters incompetent to them, and not within their jurisdiction,—it be an instruction by the General Assembly to all Presbyteries, that they proceed henceforth in the settlement of parishes according to the practice which prevailed previously to the passing of that act.’ The remainder of the motion went to the manner in which the duty of Presbyteries should be performed, upon objections stated to the presentee.

The course taken by Dr. Cook was the clear and plain course of duty, in the circumstances, for a Church founded and established by the state. They had taken a step, and sanctioned a measure, which the legal tribunals of the country had solemnly decided to be incompetent and illegal. An *Establishment* can have no authority from the state to set aside the statutes of the state, passed to limit and restrain that Establishment, if these, or other statutes, do not confer such authority. If individuals, whether a majority or minority, happening at the time to hold cures in that Church, choose to think that these restraints are inconsistent with the character of the Church as a branch of the Church Universal, and that, as ministers of the gospel, they cannot recognize such restraints, their course is plain, and it is imperative. But the Church Courts of the Establishment had but one course to adopt, viz., to acknowledge the illegality of the measure which they had incompetently, as an establishment, passed, and to stay further procedure in furtherance and prosecution of it. After that, they might take any course, by appeals to the legislature or otherwise, which seemed expedient or fitting, in order to obtain their object, viz. to effect the alteration in the law, which they found they could not themselves alter,—to gain for the congregations of the Establishment the privileges which it was found the Church could not bestow, and to introduce that requisite for the settlement of proper ministers of parishioners, which the Church thought essential, and which the constitution of the National Church, as established and settled by law, did not, it appeared, secure and sanction. An application to the Legislature for these, or any other alterations which the Church thought necessary or expedient, was quite consistent with obedience to the law as declared by the House of Lords.

But their duty as an Establishment was to acknowledge the law. Alteration of the law they were entitled to ask for from the legislature, which had fixed the constitution and powers of the Church. If that could not be obtained, and if the Church was thus left, in the opinions of any of its present members, in an unscriptural situation, such members might then leave it. Their places in the Church would soon be filled by men as zealous and able as themselves, though contented with

the constitution under which the Church of Scotland has hitherto flourished.

The motion which Dr. Chalmers brought forward created much disappointment. He has alluded to the expectations of a very opposite course of conduct, which might have arisen, as he did not deny, justly, from the views he had expressed in conversation on the subject; and if one can collect his meaning distinctly, he admits that he entertained a different view of the matter, and contemplated a different course, until he read, and, as I think, imperfectly understood, the opinions of your Lordship and Lord Brougham, delivered about a fortnight previously. That he had so little time to consider their opinions, might, I think, have rather induced him to support the original proposal of Dr. Muir, simply for a committee, in order that time might be obtained for further consideration. The disappointment certainly was great. I fear Dr. Chalmers will soon repent the hurried manner in which he gave way to the fiercer zeal of those whom, he admits in his speech, he had found it so difficult to restrain even from more violent courses.

His motion is curiously and evasively worded, considering its direct and avowed effect. Many at first could not even perceive that it necessarily and actually declared the resolution of the Assembly to continue to enforce the Veto in defiance of the judgment of the House of Lords. Indeed, the conclusion of it almost leads to the suspicion that Dr. Chalmers himself did not see the extremities into which he was plunging the Church, apparently without the means of future escape, especially when contrasted with the vagueness of the first part of it. He admitted in his speech, that his motion was put into form *by others*. And I cannot but think that it took, in *their* hands, a shape and form very unlike what his straightforward course of action would have suggested. He seems to have wished simply to affirm a general doctrine, and then to ask the legislature to enable the Church to carry it into effect; whereas the motion, under generalities, re-asserts and *abides by the Veto*.

Dr. Chalmers's motion is in the following terms: 'The General Assembly having heard the report of the Procurator on the Auchterarder Case, and considered the judgment of the House of Lords, affirming the decision of the Court of Session, and being satisfied that, by the said judgment, all questions of civil right, so far as the Presbytery of Auchterarder is concerned, are substantially decided, do now, in accordance with the uniform practice of the Church, and with the resolution of last General Assembly, ever to give and inculcate implicit obedience to the decisions of civil courts, in regard to the civil rights and emoluments secured by law to the Church—instruct the said Presbytery to offer no farther resistance to the claims of Mr. Young or the patron, to the emoluments of the benefice of Auchterarder, and to refrain from claiming the *jus devolutum*, or any other civil right or privilege connected with the said benefice.

'And whereas the principle of non-intrusion is coeval with the Reformed Kirk of Scotland, and *forms an integral part of its constitution*, embodied in its standards, and declared in various Acts of As-

‘sembly, the General Assembly *resolve* that *this principle cannot be abandoned*, and that no presentee shall be forced upon any parish contrary to the *will* of the congregation.

‘And whereas, *by the decision above referred to*, it appears that when *this principle is carried into effect* in any parish, the *legal provision* for the sustentation of the ministry in that parish *may be thereby suspended*, the General Assembly, being deeply impressed with the unhappy consequences which must arise from any collision between the civil and ecclesiastical authorities, and holding it to be their duty to use every means in their power, not involving any dereliction of the principles and fundamental laws of their constitution, to prevent such unfortunate results, do therefore appoint a committee for the purpose of considering in what way the *privileges* of the National Establishment, and the harmony between Church and State may remain unimpaired; with instructions to confer with the Government of the country, if they shall see cause.’

The terms of this motion require a good deal of attention. I may inform your Lordship, however, in the first place, that it was followed up, in the course of a few days, by *instructions to Presbyteries* to *continue to do that* which the Court and the House of Lords had solemnly decided to be a violation of the duties of Presbyteries, under the statutes of the realm, and to be a wrong.

The motion in the first paragraph declares and admits, that all *questions of civil right* were decided by the judgment of the House of Lords. Now, what are the questions of civil right so decided? From that point the Church cannot escape. The judgment expressly finds, that the rejection of a presentee, on account of the Veto, was illegal, that is, against statute law; that the Presbytery, in allowing the Veto, and in acting upon it, *had acted in violation of their duty*, as *declared and imposed by statute*,—contrary to the express provisions of the statutes founded on (the act 1592, establishing Presbytery, and the act 1711, being the two leading statutes),—and to the hurt and prejudice of the patron and his presentee.

The Presbytery then has a duty imposed by statute. That is a civil question. The presentee is the individual to whom that obligation must be performed. His *right is to call on the Presbytery to take him on trials*: He *calls upon them to perform a statutory duty*: That is plainly a civil right. And it is decided that the Presbytery did wrong in not taking him on trials, and thereby acted in violation of a statutory duty: That is a civil question.

These are the questions of civil right finally decided; in other words, that consistently with the statute law of the realm, the Veto cannot be admitted, because it is a violation of civil rights secured by statutes; because the act of the Presbytery, in admitting the Veto, *was a violation of their duty enacted and imposed by statute*; and because the act of the Presbytery was thereby prohibited.

The law may appear to be good or bad to certain members of the Establishment; but such is the judgment of the courts of law as to the law. That the violation of a statute protecting civil rights, and im-

posing express duties on Presbyteries, at the time of the establishment of the national Church, is a civil question, the Church may deny ; but such an assertion only illustrates the extent of their present pretensions, and the alarming usurpation of power at which they are aiming.

No rational man, unbiassed in his view of the matter, can dispute that the judgment of the House of Lords decided that the Veto, and the conduct of the Presbytery in admitting and acting upon it, were acts expressly prohibited, and in violation of statute law. Yet, in the present age, the General Assembly of the Church of Scotland has deliberately resolved that they will continue openly and directly to persevere in that violation of the statutes of the realm, after the House of Lords have solemnly declared their import, meaning, and effect.

I shall afterwards advert to the extraordinary errors involved in the notions, (1.) that an Established Church can assert any authority *in opposition* to the statutes which have established and regulated it ; and (2.) that the Established Church is entitled to put *its own* construction on these statutes. The ministers of such a Church may most conscientiously, and often most justly, and on the most Scriptural grounds, conceive that they have not been allowed by the State to exercise the authority which ought to belong to all ministers of the gospel, over all classes adhering to their persuasion, exactly as they may often have great reason to complain that they do not receive the aid which it is the duty of a government to afford to the Church established by the State as the national Church. That is true. The members of the Church Courts, or its other rulers, may be right, and the statutes and laws of the land regarding the Church, may be wrong. Be it so. It is natural to endeavour to get the latter altered, when wrong in the estimation of the former. But, until altered, they are part of the constitution of the country, and a very solemn and important and leading part of such constitution, and must both be interpreted and obeyed.

The Scotch legislature passed the act 1592, in the terms above quoted, which, at the time of the establishment of Presbytery, gave collation to Presbyteries, under an express provision and condition which directed a certain duty to be performed. The British Parliament, in order to enforce that duty, and to secure the right of patronage, repeated the enactment. The House of Lords have solemnly adjudged that the rejection by a veto is contrary to these statutes, and a violation by the Presbytery of the duty thereby imposed.

Dr. Chalmers's motion does not embody the plea of a learned member of Assembly who supported it, that the Legislature *committed* to the Church, on whom the duty and the condition was imposed, the co-ordinate right and jurisdiction of interpreting and deciding on these statutes, and of pleading their decisions against the judgment of the Courts of Law. Dr. Chalmers takes bolder ground,—but ground which ought to lead to secession.

His motion declares the principle of the Veto Law, viz., the right of the people to reject, (for the vagueness of the term, *non-intrusion*, ought not to mislead,) to be an integral part of the *constitution of the Church*,

and therefore not to be abandoned by the Church. But the statute law has prohibited and excluded that right of rejection, and the Courts have declared the measure enforcing that principle to be a *violation of the duties of Presbyteries*, as established by the State. Dr. Chalmers then, recording his conviction that such a view is against the Scriptural notion of a Church, should either have proposed (obeying the law in the meantime) to apply for an alteration of the same, or have left the particular Church which the State had so fettered restrained and mutilated in its unalterable claims as a branch of the holy universal Church.

The course actually taken is, to re-assert that which the House of Lords has disallowed. The second sentence of this motion is indeed an extraordinary proposition to be adopted in the face of the country by an Established Church, after the judgment of the highest tribunals respecting the statutes which formed that Establishment. It repudiates the *acts of Parliament* as an integral part of its constitution, and wishes to rear up a separate constitution apart from and opposed to these statutes. Let us examine its accuracy, and the authority and value of its constitutional assertion.

‘Embodied in its STANDARDS.’ Now, what are the ‘Standards’ of the Church? I thought there could be no doubt on that point. I understood the Standards of the Church (in addition to the Scriptures, common to all), to be, in the proper and legitimate sense of the term, whether used as an ecclesiastical or legal term, its Confession of Faith and Catechisms. I know of no other. Is it in these that this part of the constitution is found? The notion is absurd,—and I complain of the gross delusion practised by the use of such terms. The *Standards* have never been appealed to in the course of the discussion, not even by the most learned and excellent mover of the Veto Law, in his able defence of it on the Bench. The Confession of Faith does contain matters respecting Church Government and Discipline and Polity; and that Confession, adopted, be it observed, and established by Act of Parliament (1690), is, as to all such matters, in the most general terms:—Terms excluding all such notions of particular regulations on these points being laid down. And I suspect the remark of the Lord President, in his address to the members of the Presbytery of Dunkeld, in the Lethendy case, was well-founded,—that those members of the Church who wished to disown the authority of the State to expound and enforce the constitution of the Church, had paid but little attention to the emphatic and stringent terms of the chapters of the Confession of Faith relating to the duties and powers of the civil magistrate, and to the plain exposition of the subjects which form the proper topics for the consideration of the Church Courts and Assemblies.

The position, then, that the constitution of the Church, as embodied in its *Standards*, contains any one syllable which recognizes the Veto, is not accurate, nay, cannot be defended as accurate by any one.

It will not do to say that, by ‘the Standards of the Church,’ is meant something which forms no part of these Standards, but works of historical interest. The term has a fixed, I may say, a technical meaning.

The ministers are bound to sign the *Standards*: They are entitled to require various persons, for instance, the Professors of universities, to sign its Standards; and the Standards are perfectly ascertained and determined,—ascertained by act of Parliament, and by the most regular acts of the Church.

The act 1690, session 4, of 1 Will. and Mary, c. 22, entitled an ‘Act for settling the quiet and peace of the Church,’ after again ratifying the Confession of Faith, proceeded to enact,—‘That no person be admitted or continued for hereafter to be a minister or preacher within this Church, unless that he, having first taken and subscribed the oath of allegiance, and subscribed the assurance in manner appointed by another act of this present session of Parliament made thereanent, do also subscribe the Confession of Faith ratified in the foresaid 5th act of the second session of this Parliament, declaring the same to be the confession of his faith, and that he owns the doctrine therein contained to be the true doctrine which he will constantly adhere to: As likewise, that he owns and acknowledges Presbyterian Church Government, as settled by the foresaid fifth act of the second session of this Parliament, to be the only government of this Church, and that he will submit thereto, and concur therewith, and never endeavour, directly or indirectly, the prejudice or subversion thereof. And their Majesties, with advice and consent foresaid, statute and ordain, That uniformity of worship, and of the administration of all publick ordinances within this Church, be observed by all the said ministers and preachers, as the same are at present performed and allowed therein, or shall be hereafter declared by the authority of the same, and that no minister or preacher be admitted or continued for hereafter, unless that he subscribe to observe, and do actually observe, the foresaid uniformity.*

The Formula drawn up by the Church in consequence of, and in obedience to, this act of Parliament, is in the following terms, and contains another recognition, that every thing connected with the constitution of the Church of Scotland was fixed by act of Parliament:—‘I do hereby declare, that I do sincerely own and believe the whole doctrine contained in the Confession of Faith approved by the General Assemblies of this national Church, and *ratified by law* in the year 1690, and *frequently confirmed by divers acts of Parliament* since that time, to be the truths of God: And I do own the same as the confession of my faith,’ &c.†

In compliance with these doctrines, certain questions of similar import are put to licentiates and to ministers, and then they subscribe this Formula and the Confession of Faith. It is really in vain, therefore, to raise any doubt as to what are the Standards of the Church, in any correct acceptation of the term, or according to the meaning in which alone

* Scotch Acts, vol. iii. p. 395.

† Peterkin's Compendium, p. 470. Church Styles, p. 90.

it can have been legitimately employed in the motion of Dr. Chalmers. We have these settled and ascertained by statute. We have the Church, in conformity to law, requiring acknowledgment of them, as ratified by statute,—thus admitting that the Standards of an Established Church must be what the State ratifies, adopts, and acknowledges.

If the term is not used correctly, there is an end of all reasoning. To what does Dr. Chalmers refer as ‘the Standards’ of the Church? Is it to the First Book of Discipline? No well informed man will venture to state that to be one of the Standards of the Church. Is it to the Second Book of Discipline? I wish to know by what authority, or in what correct sense of the term, that work can be said to be one of the Standards of the Church, or the principles and maxims of that work adopted by the Church after its establishment in 1592, so as to form part of the Standards of the Established Church. It was framed before Presbytery was adopted by the Legislature, during the period when the Church was struggling to obtain a proper constitution. It was doubtless the exposition of the code of Ecclesiastical law to which the Church wished to obtain the sanction of the Legislature. It was presented for that purpose to the King and Parliament. It formed the subject of repeated discussions with the Sovereign for many years. It was rejected by the State, as a code or compilation to be acknowledged at all. The correct account of the history of the Second Book of Discipline is given by Lord Moncreiff, in his elaborate evidence in support of the law of patronage before the Committee of the House of Commons in 1834, in the following paragraph. Answer 1329.* ‘This Book of Discipline was properly a claim presented to the Crown and Parliament. In speaking of patronage, it makes no distinction whatever between one sort of patronage and another; it speaks of them generally; and it refers to the induction of ministers into any of the parishes of the country. That claim being presented to the Crown and Parliament, was followed by the act of Parliament in 1592; and it is upon the confirmation which that statute gave to it, that any authority which it can have, as forming *part of the constitution of the Church of Scotland*, as by law established, *can rest*. I think, therefore, that it can scarcely be doubted that that Second Book of Discipline *can never be considered as making the law of the Church* by itself, or *treated otherwise than in connexion with the statutory enactments* which gave it force, as forming the authoritative sanctions which were accepted of by the Church, and which being fully acted on, became of course the basis of the whole constitution of the Church of Scotland. But that act of 1592 did not grant that part of the claim contained in the Second Book of Discipline, that the ministers should be chosen by the Presbytery; but, on the contrary, it contained the reservation of which the Committee was aware: “Providing the foresaids Presbyteries be bound and astricted to receive and admit

* Patronage Report, p. 175.

“ quhatsumever qualified minister presented be his Majesty or laick
“ patrones.”*

The part of the act 1592 referred to by Lord Moncreiff is very material. It ratifies and approves of the Presbyterian form of Church Government, and General Assemblies, Synods, and Presbyteries, and particular Sessions, as already introduced into the kirk; and then it emphatically adds, ‘ With the hail Jurisdiction and Discipline of the same kirk agreed upon by his Majesty, in conference had by his Highness with certain of the ministers convened to that effect,—of the which articles the tenor follows :’—Then the statute goes over and adopts many parts of the Second Book of Discipline, though without naming or alluding to it, *omitting entirely the parts which relate to Patronage and the appointment of ministers, or to the general powers of Jurisdiction and Legislation* claimed for the Church :—And at the close brings in the provision, *giving to Presbyteries the power of collation, and imposing on them the duty of admitting qualified presentees, in the terms already quoted.*

Thus, the very part of the Second Book of Discipline which relates to the matter in question, was omitted in the statute which records the agreement on matters of Ecclesiastical Polity which led to the Establishment of Presbytery; and the statute closes with the substitution and enactment of a provision of an opposite character. Is the part omitted to be held forth by the Church so established as an integral part of its constitution, and as a part of its Standards? But the proposition of maintaining either that the whole of the Second Book of Discipline is part of the integral constitution of the Church of Scotland, or forms one of its Standards, is surely not a point which Dr. Chalmers intended to affirm. To what would such a proposition lead? Why to this,—that every subject of the country who is and desires to continue a member of its Established Church, must admit, as an article of his Church, and of his own belief, the authority and doctrines of a work, not named any where since the Establishment of Presbytery in 1592, as a part of its constitution, or as one of its Standards; and including that portion of it which the Act 1592 specially omits, in order to introduce and enact a different provision.

* It is very true, as I shall immediately mention, that the General Assembly in 1838 affirmed, that the Church was entitled to the Ecclesiastical authority and power which the Second Book of Discipline claimed for it, in the terms, and to the extent therein stated; and the mover of that resolution broadly contended, that the whole of the Second Book of Discipline had received the sanction of the State, and was to be regarded as law, unless an express statute disallowing any part of it could be quoted. I allude to this to show the lengths to which the present pretensions of the Church are carried, and the propositions maintained in order to support the same. I presume there are few who will be disposed to think that Lord Moncreiff, upon this point, is not to be regarded as the highest and most competent authority among the advocates of the Veto.

The Standards of a church (in addition to the Scriptures) mean those compilations or expositions which constitute the proper declaration of its views on the points therein embraced, whatever these may be, and must therefore form part of the opinions and belief of the members adhering to the Church. And of an Established Church, such Standards must have received the sanction of, or been adopted by, the State, and admitted by it to be part of the institutions of the Established Church, or the State must have committed to the Church the power of declaring and fixing its own Standards. Now, in what part of the constitution of the Established Church is the Second Book of Discipline declared to be one of its Standards, or even named and recognized at all? Where is the authority for saying that a subject of the country cannot be a member of the Church, unless he admits its authority and submits to its doctrines? Where is the command for requiring any minister of the Church to do either? The attempt could not be made to compel any minister of the Church to acknowledge the authority of the Second Book of Discipline. The Second Book of Discipline, for example, claimed election of ministers for the Presbyteries, (all admit the term eldership to denote the Presbyteries); and it further declared, that 'the order which God's word craved cannot stand with patronage.' Is that an integral part of the constitution of the Church? No one at least ever more forcibly advocated patronage than Dr. Chalmers in the first half of his speech in 1833.

'Declared in various acts of Assembly.' These are, your Lordship well knows, but few and scanty—expressed in the most general terms—containing no regulation—supported by no proof that they ever understood, according to the modern acceptation of the term non-intrusion, namely, a right to a Veto:—And so far from fixing *that* principle of absolute and peremptory rejection, they establish, as Sir H. Moncreiff justly observes, nothing but this—viz., that the *position of objectors* is the proper place which the Church has allowed the people to assume. But if these acts of Assembly are after the act 1592, or after the act 1711, of what avail are they more than the Veto Act itself? As to any appeal to acts of Assembly such as 1648, or the Directory of next year, when patronage was abolished by act of Parliament, and the Legislature committed specially to the Assembly authority to regulate the appointment or calling of ministers during that state of things—it is really unworthy of a place in a constitutional argument. To quote the general declaration contained in one act of Assembly some years after 1711, which was never acted upon, and, as Sir Henry Moncreiff well observes, which was only meant to try to conciliate some of the first Seceders, but had no effect in practice whatever—will little avail the Church on such a point. Accordingly, this part of the case—any reference to acts of Assembly—was admitted by every one to be the weakest part of the argument in the whole discussion in the Auchterarder Case.

But, after all, what does Dr. Chalmers mean to say was so *embodied and declared*? A right of *veto* or absolute rejection? No; that is not pretended. Neither the Second Book of Discipline, nor any other authority referred to, exhibits such a principle. It is 'the principle of

non-intrusion.' What does that mean? *If it is not* the Veto, precisely as enacted in 1834, (before which time neither the Veto, nor any one of the regulations of the Veto Act were ever heard of), which forms the asserted constitution of the Church, then the House of Lords, which has given judgment on the Veto, and nothing else, is right. There is then no such thing in the Church as the Veto; and the course for the Church to take was plainly to say:—'We agree to abide by a general principle, which at various times the Church has longed for, and which somehow must have effect—though hitherto we have never succeeded in obtaining an acknowledgment of it—and we apply to Parliament to alter the law; or we propose another mode of endeavouring to give effect to the principle, consistently with the law.'

But, after all, the principle of non-intrusion either means, in this question with which the Assembly is dealing, the right of rejection by the people,—that is, the Veto,—or the declaration was without meaning, and did not apply to the only practical point before the Assembly. The only thing truly *intended* to be *described* by the principle of non-intrusion, is the *right of rejection*,—a right on the part of the people, without stating any objections, and whether the Presbytery approve or not, to refuse to have the person proposed to them. The thing contended for by the motion of Dr. Chalmers is, the right of the people to refuse or reject the person proposed. That is what the phrase, non-intrusion principle, is intended to designate.

Is it really meant to be maintained, that the rejection by a majority of communicants without cause—a *right of rejection*, call it veto or not—was ever known, adopted, or practised in the Church, while the right of patronage formed part of the law, or indeed at any time? Dr. Chalmers, I presume from his speech, is prepared to go that length; for he says he will demonstrate to the Government that the decision of your Lordship was wrong. But in truth the general terms of the motion are calculated to disguise and evade the plain assertion of such a point, while they satisfy or pacify those who oppose patronage altogether, and who refer to this as the only true import of the declaration.

Considering how anxiously the argument in the Auchterarder cause was aided by all the research which its supporters in the Church could contribute, this reference to the Standards of the Church did create very general surprise. The Standards of the Church are part of the law of the land. What is there then in the Confession of Faith on the subject? It is silent. There is not one word in it as to the appointment of ministers. What is there in the Catechisms of the Church? I believe all that is contained in either Catechism, is in the following sentence in the Larger Catechism, after stating that the Word of God is to be read by all in private, though not publicly to the congregation,—'The Word of God is to be *preached* only by such as are sufficiently gifted, and also duly approved and called to that office,'—referring to the necessity of due and adequate preparation, and to the influence of proper and adequate motives, which may warrant an individual to hope, with the sanction of the Church, that he is called of God

to that sacred office. No one *ever* interpreted this sentence (I believe) so as to apply it to the nomination or election by man.

On reviewing these proceedings, one remarkable fact which presents itself for reflection is, that this motion, after all, does not venture to claim the authority contended for by the Church, on the ground that such authority belongs necessarily to every branch of the Church universal—to every body of ministers, whether established by the State as a national church or not—as an authority committed to it by the Divine Master from whom their commission flows—an authority inherent in every church, therefore, and which its institution and recognition by the State must acknowledge, else the Church cannot cohere with the State.

Such is *not the ground put forth in the motion*. But in declining that ground, the Church gives up the very point for which they are in truth professing to contend, and abandons the only vantage ground which could be occupied in such a contest.

If the principle contended for by the Church is not one which, on Scriptural grounds, must obtain, according to the views of its advocates, in every branch of a Christian church; or if the authority to introduce and enforce such principles, when adopted by the Church, is not an authority derived directly from the institution of the holy ministry by its Divine Founder, and which every established church must therefore possess;—if these are not the grounds on which the Church of Scotland has come to this remarkable and extraordinary declaration of independence of the decisions of the courts of the country, and of their intention to refuse to give effect to these decisions, on what ground can their conduct be defended, or on what consistent view of the subject can their resolution rest?

The motion asserts merely that the principle of non-intrusion is an integral part of the '*constitution of the Church of Scotland*,' and refers to *evidence* of that constitution. Then the question is at once reduced to this by the Church itself—What was '*the constitution*' of *this* Church at the time of its establishment? There is no longer the question—What belongs to every branch of a Christian church?—but merely the point—Did the legislature recognize in any shape, this principle of non-intrusion, that is, the right of rejection, when it fixed *the* constitution of the *Church of Scotland*? This is the very point decided by your Lordship. Or did it bestow on the Church the authority and right to declare and ascertain, or alter, its constitution on such questions—points affecting directly those parts of the constitution which were fixed by statute? Did the legislature submit to the future exposition of the Church, in opposition to the decision of courts of law on these statutes, the parts of the constitution so fixed?

The assertion is, '*such was our constitution at the first*.' Then nothing, it appears, is claimed for the Church by the motion, which was not part of its constitution, as then fixed ascertained and declared. Observe what an immense point is thus conceded: how indefensible, on this view, the resolution 'not to obey the law!' The *constitution* of an established church is matter for inquiry and for decision. So says the motion, for it refers to standards. It is idle to say that the Church can assert any

point to be part of its constitution, if it demonstrably is not. And further, it is equally clear, that when the matter of inquiry is, whether a particular measure or principle was part of such constitution, and when it has been decided by the only tribunals *appointed to interpret and enforce statutes*, that the principle contended for is at variance with the enactments which fixed that constitution, the Church to whom the constitution was given—and which claims nothing more than its constitution—cannot have the right to decide on its own views, and set at nought the decisions of these tribunals.

The point to be attended to at present is, that whatever may be the arguments of its supporters, or the principles which they *act* upon, the *motion* of the Assembly announces and proclaims resistance to the law, not on the ground that the Church possesses the authority it claims from its Divine Head, and as part of the commission given by him to the holy ministry, but because the Assembly asserts its own view of a point in the *particular* constitution of *this particular* church, but which the tribunals of the country have decided forms no part of the constitution of this Church. The authority is not claimed, *on the face of the motion*, as it might be, by the ministers of a Dissenting persuasion, over those who choose to adhere to them, as part of the inherent authority which the Ministers of the Word necessarily possess. Nor is the right claimed for the people, as part of the religious principles necessarily pertaining to all Christians. But these things are predicated of, and contended for by, an Established Church, as parts of its constitution. And thus, while the real pretensions are very different, and much more alarming, the resolution of the Assembly, directly refusing to obey the law, is, after all, simply a declaration as to an alleged point in the constitution—aye, and the written constitution too—of the Church, which it resolves to enforce, after the courts of law, on an issue joined to decide the point, have solemnly adjudged that such was not part of that constitution. Dr. Chalmers, in truth, shrunk from the doctrine which is in reality advocated, and thus gave up the only ground on which his motion could be consistently defended.

Thus the *resolution* in truth abandons the vantage ground on which the Church wishes to stand. If the principle were one resulting, in the opinion of the Church, from the authority of the Holy Ministry, and the privileges of the Christian people, the position of the Church would at least be taken on a ground, on which those maintaining it might allege they could not be called on to surrender their own views—whether they could remain members of the Establishment, would be then the question. But when the resolution to resist the law is taken *on the ground* that the Church is to decide what the particular constitution of this particular church is, according as that is recorded and established by statutes, it is rather too much, either to suppose that the statutes which adopted and sanctioned that particular church are to be thrown out of view; or that the tribunal which is to decide on such questions is the Church itself; or that the Church, more than any other Body in the country, is to have a license to resist the decisions of the courts of law, because it differs from these decisions, and to act in open violation of statutes involving matters of civil rights, which the courts of law have found to be infringed by its acts.

Then follows the singular part of the motion : ‘ Whereas, by the *decision above referred to*, it appears that when *this principle is carried into effect in any parish*,’ (this plainly refers to the Veto or right of rejection, for that is the measure founded on the non-intrusion principle, to which alone the *decision* applies,) ‘ the *legal provision for the sustentation of the ministry in any parish may be thereby suspended*, the General Assembly, being deeply impressed with the unhappy consequences which must arise from any collision between the civil and ecclesiastical authorities,’ &c.

Thus, then, the motion admits at once, that if the Veto Act is adhered to, the legal sustentation for the ministry will be suspended. How can the measure which produces that result be part of the constitution of an *established church*? The endowment and the settlement of ministers are part of the provision which the State makes for the instruction of the people, and of that establishment which it sanctions. It is the great feature of an Establishment. Can that establishment declare as a part of its constitution, a measure which is irreconcilable with a claim for the endowments intended by the State for a ministry to be settled according to law? I should have thought that the admission of such a result would have pointed out to every churchman, that a principle admittedly leading to this lamentable state of things, never could form any part of the constitution which the legislature has adopted. If no part of such constitution, then it is yet to be sought for and obtained from Parliament. And the extraordinary part of the whole affair is, that after all, *application is to be made to the State* for that power which is denied, (a sufficient acknowledgment of the ‘ blunder’ by the Church in assuming it), and yet that the measure is to be exercised and persevered in in the meantime.

Before noticing this part of the motion, let me request your Lordship’s attention, shortly to the concluding part of the first sentence, which ‘ instructs the said Presbytery to offer no further resistance to the claims of Mr. Young or the patron, to the emoluments of the benefice of Auchterarder, and to refrain from claiming the *jus devolutum* or any other civil right or privilege connected with the said benefice.’

I lament to see this *pretext*—for it is really nothing else—of submission to the law, introduced into a motion by the General Assembly—when their *real* proceedings are directly and openly in violation of the law, and in contempt of the judgment of the House of Lords.

A plainer, a more ingenuous, a straightforward course, would have been more becoming and more consistent. The claims of *Mr. Young* to the emoluments! Why, every member of the Church, of any intelligence, knows, (though in England the matter may be misunderstood, and throughout the country in Scotland it has by many been so misunderstood), that they do *oppose*—aye, and effectually continue to oppose *Mr. Young’s* claims to the emoluments; for until they take him on trials, and admit and receive him, (if qualified), they maintain that he cannot have a title to these emoluments, or ever claim them. No further resistance to his claims to the emoluments! Why, they ought then to take him on trials, if qualified, and proceed to his induction, to the effect of constitut-

ing his title (in their view of it) to claim them. Then the Presbytery are to offer no further resistance to the *patron's* claim to the emoluments ! This is too much. All parties have before *acknowledged*, that the Court of Session had power to *decide*, to the effect of giving the patron the stipend. The Church did not, in the Auchterarder case, dispute that that point was fixed. Yet so far is the Church from offering no resistance to the patron's right to the stipend, that the fact actually is, that the ministers of the Church, in *another form*, viz. as members of the Clergy's Widows' Fund, to which all ministers belong, *claim these emoluments* during the whole period which may elapse till Mr. Young or another is settled, as *vacant* stipend, under a recent act, to which patrons gave their consent ; and on that ground resist the patron's right. Yet the Assembly put forth that they offer no resistance to the patron's claim to the emoluments during their refusal to proceed with the trials and settlement of his presentee ; while, under another name, the Church claims these emoluments for the benefit of their Widows' Fund scheme !

The Presbytery are instructed to refrain from claiming the *jus devolutum*. This is doing nothing in the way of giving obedience to the law. A court of law would, as a *necessary* consequence of the decision in the Auchterarder case, (indeed it is the same point in another form), set aside any presentation the Presbytery might issue, and the presentee of the Presbytery could get no right under it whatever to the benefice. Their presentee never could obtain possession. He could not be the legal minister of the parish. Nay, further, Dr. Chalmers knows that the Presbytery would be interdicted from attempting to claim the benefit of the patronage ; and I suppose by this time the Church perceive that the violation of another interdict is a matter which they had better not embark in.

This part of the motion then, is in truth but the *semblance* of an acknowledgment, even to the extent stated, of the law and of the decisions of the Court : while in substance the Church stands out in open resistance to the law. True, they do *not claim from* the law, what the law has denied, or would deny to them. There is no submission in that. But to the judgment of the Court they resolve not to give effect, so far as they could be called upon to obey it. The motion was well calculated at first to mislead, and did mislead many ; but whenever it came to be understood, it only led to deep regret that it should have been put forth as an acknowledgment of the authority of the law, when it in some respects disguises or misrepresents the truth, and in others only directs the Presbytery to abstain from doing what the Church cannot do, and never claimed the power of doing.

But surely the admission that the Church cannot claim the *jus devolutum*, might lead any one who dispassionately reflects on the subject to perceive, that the rejection by the Veto of the patron's presentee, cannot, on the principles of the Church itself, be constitutional, *if it does not infer forfeiture of the patron's right*, when no acceptable person is found within the six months, and *does not give undoubted right* to the Presbytery to present *jure devoluto*. Their right to present *jure devoluto*, when the patron has forfeited his turn, is as good in law as the patron's.

Now the best argument for the Veto—the argument which finds most favour in the eyes of all its supporters, and was adopted by the minority of the Court—is, that as the patron must present a *qualified* person, so a man not acceptable to the communicants or congregation cannot be qualified for that particular parish, or may be taken by the Church to be not qualified. If, then, he is not qualified, in the sense in which the Church understands the term, and if no such person is presented within the six months, then, *pro hac vice*, the patron's right ought necessarily to be forfeited, and the right to devolve for that vacancy to the Presbytery. The non-appointment of a *qualified* person within six months in every case infers such a forfeiture. That is a legal, a constitutional principle. The rejection by the Veto ought then to lead to this result as a matter of necessity. If it does not,—if the Church cannot claim that, under the exercise of the part of *the constitution* for which the resolution contends,—here is a plain test that the Veto cannot be part of the constitution of the Church, and that the Church cannot defend its own enactment.

Further, the Church here admits by this motion—indeed it has never denied—that the courts of law alone can determine what shall infer such forfeiture of the patron's right. That is a point which has been decided in innumerable cases with Presbyteries. Does not this necessarily, on every principle of sound reasoning, involve the further admission, that, if the Presbytery reject a person on grounds *not consistent with the statutes*, such rejection is not within their province and powers, and that the validity of such rejection must be judged of by the tribunals which alone can decide on the question, whether the patron has forfeited his right *pro hac vice*, and the Presbytery acquired the right.

The practical conclusion in which the last two paragraphs of the motion ends is, that though the Veto, being declared to be illegal, will lead to the suspension of the *legal provision for the sustentation for the ministry* of a parish, yet the measure is to be adhered to. But unhappily the result is even worse; and either there is an obscurity studiously thrown over the practical results of the motion, in the language employed, or there has been a most infelicitous selection of expressions. It is not merely the *legal provision* for the ministry which will be suspended: *The ministry itself will be suspended*. The parishes may remain, for the lifetime of the presentee, vacant, so far as respects the ministrations of a regular settled pastor.

The rejection of the presentee by the Veto has been found to be illegal. The Church admits it to infer *no forfeiture* of the patron's right of presentation. The Church admits that they cannot claim the right of appointing *jure devoluto*. There is no other mode of appointment. The church and parish remain vacant. Auchterarder does so now, and must continue so. Yet this is the state of things which the Church deliberately sanctions and continues, after the judgment of the House of Lords has determined the question in such a manner as necessarily to lead to that result, if they do persevere, (as they have re-

solved to do,) in the violation of the statute law, and in the refusal to perform the duty which that statute law has imposed on them.

If it shall be said—We intend to settle ministers, if Parliament will not give us the power we ask :—Every one must be aware that this is impossible. If Parliament shall resolve not to give the Church the power she claims, it is quite plain that the courts of law will not permit the Church to settle and induct ministers into parishes against the law, to which the State resolves to adhere ; and the clergy know well that such a state of things *could not subsist*.

This is the very result which many look forward to. The evils arising from such a collision, between the authority of the law and the resolution of the Church to resist that authority at all hazards, they know will be very great,—the confusion and disorder in the social system enormous. But in these evils, and in the confusion which the motion will produce, the strength of the Church is thought to lie. It will be a state of things which must be cured—which will create a demand for a remedy ; and so, by reason of the evils and confusion which are deliberately contemplated as the necessary consequences of the motion—which the motion itself contemplates—its supporters hope to triumph.

By the suspension of the ecclesiastical establishment in some, or it may be, in many parishes, it is conceived there will be so strong a call for some remedy—so loud a cry on the part of the parishes against the patrons or the presentees, on whom, in the first instance, the blame is likely to fall, rather than the Church at large, that the promoters of the recent proceedings expect, by the very evils which they have enacted, to gain their object. It is thought that the Church, being a popular Body, must gain in the long run in this contest. The reasoning is :—‘ Let us then stand firm. The Veto must be admitted ; and ‘ the evils in the meantime will accelerate our triumph.’

Others, decidedly opposed to patronage, and who have adopted the Veto as a stepping-stone to its abolition, think that this state of things, which Dr. Chalmers’s motion contemplates as a probable result, will create an outcry (not the less loud that it may be misdirected and groundless, so far as the cause of such state of things is concerned) against *patronage*,—promote its ultimate abolition, and so tend to secure the main object which many of those now joining in or directing these measures, have in truth in view, viz. popular election of ministers by the people at large.

That an Established Church should deliberately contemplate and sanction such a state of things as the probable suspension of the legal ministry, and of provision for the ministry, because they will not abandon a measure first proposed only a few years ago, and declared by the highest tribunal to be beyond their competency, is really lamentable. But it requires but little reflection to perceive, moreover, that it is only through this state of things that the Church expects and means to gain its object and secure its triumph in the course of open resistance to a violation of the statute laws of the realm.

No one can believe that the Assembly, or those swaying its conduct

in a moment of heat and passion, can *intend* that a state of things so injurious to the interests of religion should subsist for any length of time. That is incredible. But it is manifest that the evils of that state of things are to be founded upon in order to strengthen the application for some statutory remedy. The Church plunges the country into this unexampled state, and then will plead the disastrous results to the Christian community in the vacant parishes, which their own measure deliberately creates, as a ground for admitting the claims and granting the demands of the Church. The dissatisfaction which it is foreseen such a state of things will create, will, it is thought, aid *them*, and operate against the individual patrons; or strengthen the Church in the attempt to overturn the right of patronage.

Your Lordship will easily perceive how much the evils which may result from the state of things which this motion contemplates, *may* aid the Church in the attempt to extort their object from the State, *if its proceedings are not firmly resisted from the first*. And their expectation to triumph in their present resolution to set the law at defiance, by means of the very mischief and public evils caused by that illegal and unconstitutional proceeding, will be increased by any encouragement, however temporary. That this is not one of the least serious consequences of the matter, must forcibly strike every one who considers how perseveringly and recklessly, in utter disregard of the disturbance of the regular action of society, of the rights of individuals, and of the authority of courts of law, the encroachments of clerical usurpation have been pushed on in other ages, with means very disproportionate to those which, for a time at least, the Church of Scotland may command.

The motion of Dr. Chalmers is thus, in plain terms—**OPEN RESISTANCE TO THE LAW OF THE LAND.**

I have now to request your Lordship's attention to the manner in which it was immediately followed up by the Assembly.

The *regulations* for carrying the Veto into effect have never yet received the final assent of the majority of the Presbyteries of the Church (although the *general* Veto law of 1834 has,) and have been from year to year retransmitted by the Assembly to Presbyteries, being *declared interim regulations*, to be acted on until finally settled. Some alterations were this year proposed—and here again was an opportunity for considering how the matter contained in Dr. Chalmers's motion was to be practically carried out and dealt with. The Church might then have said,—‘We have affirmed our *principle*, and announced our intention to adhere to it *if necessary*. We mean to do no more. It is a mistake to construe the motion as resistance, in the meantime, to the law. Until we see whether we cannot get an arrangement made with Parliament, we do not intend at once to set at defiance the judgment of the House of Lords, and to commence with a continuance of the acts, which the House of Lords have found to be illegal, and a violation of the duty imposed on Presbyteries by statute. We suspend the further operation of the Veto.’

The course taken was, in express terms, to *instruct the Presbyteries* to do that which the House of Lords had found to be illegal and contrary to statutes!

The Assembly, in spite of the urgent entreaties of Dr. Cook, adopted the following resolution:—

‘ That the General Assembly having declared, by its resolution on Wednesday last, that it is “ deeply impressed,” &c. (then the terms of Dr. Chalmers’s motion are quoted), and now feeling that it is inexpedient to take any step which may embarrass the proceedings of the Committee then appointed, *while they retransmit the regulations and re-enact them into an interim act*, direct the Presbyteries to *report all disputed cases*’ (what is the meaning of this, when the Veto is to be applied, and the presentee *necessarily*, under the law, *rejected*?) ‘ to next General Assembly.’

The latter part of this motion requires explanation. By the Veto act and the Regulations, the Presbyteries are to admit and enforce the Veto—reject the presentee, if the majority are against him—and intimate that rejection to the patron. But then, by this resolution, they are to ‘ *report disputed cases*’ to the Assembly of next year. For what purpose? The rejection by the Veto is final under the final law of 1834. The individual must be declared to be rejected. The ruin to him by the arbitrary Veto is effected. If he chooses to withdraw, the patron is entitled to present again. Then what remains to be the subject of any reference or report? *The only matter truly to be reported is, whether Presbyteries are to be allowed by the Assembly to exercise the jus devolutum.* That is, in fact, *all that can or was meant to be the subject of such report.* The Veto is to be permitted—the Presbyteries, by the regulations, *are bound* to permit it, and act upon it. The original law of 1834 (sufficient without any regulations) remains in force. The *interim* Regulations are *re-enacted*, sent to Presbyteries, who, as a matter of course, continue, and are bound to continue, to act on them as before: but they are not themselves to present *jure devoluto*, but to report to the next Assembly.

In fact, the motion merely prevents the Presbyteries from attempting during this year, after the Veto has been acted upon and enforced, to exercise the right of presenting themselves *jure devoluto*. This is the only effect of the direction to report.

Accordingly, in a reference by the Presbytery of Auchterarder to the Commission of Assembly which met in August, (to which I shall afterwards advert,) in consequence of the judgment finding that they were bound to take the presentee on trials, it was admitted and agreed by all that there was no necessity whatever for any reference—that the Presbytery should not have come to them, as their duty was said to be prescribed by and clear under the directions of the General Assembly, viz., to rest on the Veto law, and to refuse to take him on trials.

A case came before the Assembly, or rather the Commission of

the Assembly, (being a sort of adjournment of the Assembly after it is dissolved,) which marked the spirit of the Church in a still more singular manner.

In the case of the parish of Marnock, the Presbytery had *resolved to obey* the law. This had given grievous offence, and was brought before the Commission of the General Assembly, who pronounced the following deliverance :—

‘ *Edinburgh, 28th May 1839.*—The Commission took up the reference by the provincial Synod of Moray, referring the case of the parish of Marnock to the decision of the General Assembly.

‘ Mr. Clark of Inverness, authorised by the Synod, appeared to state the reference.

‘ The Commission sustain the reference, and, while deeply sympathising with the parishioners of Marnock in the circumstances in which they are placed, and duly appreciating and approving the conduct of these parishioners, they instruct the Presbytery of Strathbogie to supersede farther proceedings in *the settlement of the parish till next Assembly*, (that is, towards presenting themselves *tanquam jure devoluti*), unless in the event of Mr. Edwards withdrawing his present opposition, in which case the Commission, in accordance with the deliverance of the Assembly, instruct the Presbytery to report the matter to the next stated meeting of the Commission thereafter.

‘ The Commission farther highly disapprove of the conduct of the said Presbytery in resolving, contrary to the principles of this Church and the resolution of the General Assembly 1838, that the Court of Session have authority in matters relating to the *induction* of ministers, and that it was the duty of the Presbytery to submit to their authority; and in respect of their having come to such resolution, the Commission deem it necessary to prohibit, as they hereby do prohibit, the said Presbytery from taking any steps towards the admission of Mr. Edwards, (the presentee who had been vetoed), ‘ before the next General Assembly, in any event, as they shall be answerable.’

Thus, then, a Presbytery having resolved to obey the law, and having acknowledged that the Court of Session had jurisdiction as to the induction of ministers, to the extent of the judgment of the House of Lords, this Presbytery is censured for what they have done, and are prohibited from giving effect to the presentation in favour of Mr. Edwards.

There is no extent of actual opposition to law, to which these views of the independent authority of the Church do not directly lead; and the pretexts are innumerable, on which every point whatever may be brought within the province and jurisdiction of the Church. An example may be given of the sort of reasoning which is resorted to in support of ecclesiastical usurpation.

In the Weekly Tracts now publishing by clergymen of the Church, which are addressed, apparently from their style, chiefly to the lower orders, the following line of argument, in defence of the refusal to obey the law, is pursued. It is said that a *clear distinction* subsists,

‘between *violation of the law*, and the *breach of an obligation or condition, express or implied*!’ That though the Church may have broken, (which is of course denied,) ‘the contract with the State, by which she has been adopted as the Established Church of Scotland,’—yet this would be ‘something totally different from disobedience to the law:’—Keeping out of view (independently of the strange casuistry of the doctrine itself) the plain fact, that this contract or adoption by the State is matter of statute and of law.

Then it is said, a *misunderstanding* may arise as to the *contract* with the State, as it is called,—*that is*, the Church Courts may dispute the import and meaning of the statutes by which the *Establishment* was constituted. In that case, ‘The Church is not bound (it is argued) to take the opinion of the civil courts as a rule of her own judgment, or *even* as determining what the State’s views of the terms of the Establishment are!’ The Church then is to go to the State. Well; but in the mean time, and till the statutes are altered, is she to obey the law? The argument tells the people—that she is not; for while making this application—while ‘doing this, the Church is at liberty, or rather is bound, to adhere to what she considers to be the right condition of her being recognised by the State as a Church of Christ:’—That any fault in doing this is at the worst *only breach of contract, not disobedience* to the law!!

Can any thing be more alarming, or practically mischievous, than such Jesuitical doctrines? The courts of law are not to interpret the statutes for the ministers of the Church.—They are entitled and bound to act on their own interpretation of them. To them the courts of law are not to give the meaning and import of the legislature, in adopting and settling a particular constitution for the Church:—But 200 years and more after its institution, the Church is entitled to put its own meaning on the statutes—to act on its own decision,—and then to put forth the plea, that a *breach of contract* in regard to *statutory obligation*, is *not violation of the law*, but is the *duty of the Church*!

Then follows an argument, that every command of a Court of law is not to be obeyed, even in the character of subjects.—‘Putting all Church questions out of the way, will it be held that individuals, and societies, in any community, are morally bound to comply with every ordinance of the civil power, of whatsoever kind it may be? As long as they recognize the civil power as legitimate, they are bound to submit to whatever it may inflict as the penalty of their not complying. Their persons, their properties, they must leave at its disposal. But when they are required to act in accordance with what it enjoins, they must consider, not merely whether the power itself is legitimate, but also, whether the particular exercise of it in the instance in question is so.’ In short, subjects must submit to the *penalty* of disobedience, so long as they acknowledge the *authority* to be lawful. Then it is added, ‘It is not said, that when the civil power, in any case, issues an order, subjects are at liberty to choose whether they will obey it or submit to the punishment of disobedience; that they have an option and alternative in the matter, and may use their

‘discretion. The obligation to obey is, *so far as it goes*, positive and peremptory. But there is room for a question, *how far does it go?* Certainly, it reaches as far as the authority which claims obedience. But has that authority no boundary? The word of God certainly recognises in the most explicit manner the authority of civil rulers, and most emphatically enforces the duty of subjects to obey magistrates. And the use which has been made of its rules on this subject, would lead us to conclude, that it makes obedience to magistrates the paramount, almost the only duty of subjects, to which all other considerations must give way. But the language of Holy Scripture is, first, Fear God; then, Honour the King; and none who are not prepared to resolve the whole system of religion and morality together, into a mere matter of civil and political institution, and to hold that not the Church only, but all law of every kind, is the mere creature of the State, will affirm that cases may not occur in which subjects, not only may, but must refuse to make the ordinance of the civil power the rule of their conduct, without any imputation of sedition or rebellion, nay, with the highest praise of piety and patriotism. The civil power, then, may stretch its authority over its subjects,—over certain individuals or societies,—to a point at which they shall be bound to refuse their concurrence, without prejudice to their allegiance in all competent matters, and their general loyalty and obedience.’ I do not think such views were as openly stated by the dissenters in Edinburgh some years ago, who refused to pay the assessment on householders for the Edinburgh clergy. And it is added that the Church asserts, that in this instance, ‘the civil power *has* stretched to *this* point, that it has transgressed its proper province:’—The doctrine uniformly maintained by every Church, when insisting on its independence of civil jurisdictions, in regard to the particular point, no matter what it may have been, on which the contest for ecclesiastical usurpation began. And hence the conclusion is, that the Church is to act upon her opinion, that the House of Lords have gone beyond their jurisdiction.

Then it is maintained that in this country there ‘is no overriding court to keep all tribunals to their proper province, and determine authoritatively the respective bounds of their jurisdiction.’ The Church Courts are entitled to act without any such controul, because none such exist, and the Civil Court is acting illegally in attempting to interpret the law for *their* guidance and direction.

Again, discussing the question whether the last judgment of the Court of Session, finding that the Presbytery are bound to take Mr. Young on trials, *in performance of the statutory duty* which the House of Lords has found is imposed by statute on the Presbyteries of the Church, it is maintained,—‘But not only is the Church not bound to pay such deference to the decision of the civil courts, she is not at liberty to do so. It is admitted, that in honour and conscience we are bound to regard the declaratory finding of the civil courts, as equivalent to a direct order. And, moreover, it is admitted, that if we can, we are bound to obey it as such. Whenever the Court of Session and the House of Lords declared, that in their judgment we had

‘ acted illegally, this mere intimation of their opinion had, so far as we were concerned, all the force of the most peremptory command.

‘ And the same reasons which made it impossible for us to yield at the very first, make it impossible for us to yield now; and must make it impossible for us ever to yield. It is not a point of honour for which we are contending; that might be conceded. It is not a question of doubtful expediency upon which a new light might break upon us. It is not a mere sullen mood of obstinacy, out of which we might be coaxed, or cajoled, or compelled. It is a matter of plain and high principle. It is true, indeed, in one sense, we formed our decision originally under a mistaken apprehension of what the civil courts would determine to be the law of the land. But *we were under no mistake in regard to the law of Christ*. We thought that the law of the land allowed—we *were sure that the law of Christ required*—us to decide as we did decide. And whatsoever the law of the land may now be found, or may be made to say, the law of Christ is not changed—the *law of Christ requires that we abide still by our decision*. The question, should this man be pastor of Christ’s flock in this parish, has already been settled *according to the mind of Christ*. No new element has arisen to alter or affect our view of the mind of Christ, as applicable to such a case. The decision of the civil court may shew, that it is less in accordance with the law of the land than we thought, that Mr. Young should be rejected;—can it ever shew that it is more in accordance with the mind of Christ that he should be settled?’

Then it is said, it is better not to admit any technical grounds, or to prolong the warfare, but to bring it to a point. And it is added, ‘ This is the true reason of our refusing to proceed to his trials and settlement. We have no authority from Christ, the Head of the Church, to settle him against the will of the Christian people. This is our answer to Mr. Young, and to the high authority which he pleads. We dare not abandon or compromise this broad principle. We dare not take a single step which would seem, or might be supposed to imply—that, notwithstanding the solemnly declared dissent of the flock, and the deliberate judgment of the whole Church—we yet might possibly, unless additional objections occurred, be induced to admit this pastor. We dare not give any countenance to the idea, that after having decided, on views connected with the glory of God and the good of souls, what is the course of duty, any earthly consideration can be allowed to sway our conduct.

‘ We must refuse, therefore, to do what Mr. Young asks,—and what the civil courts pronounce him to be entitled to ask:—1. Because, the Church has staked upon this precise issue, the whole of her independent jurisdiction,—her very existence, in fact, as a Church of Christ, deriving authority from Christ alone, and bound to yield unreserved obedience to none but Christ alone. In administering his laws, she cannot suffer any judgment of a human tribunal, or any consideration of earthly expediency, to interfere as an element. The attempt to control her in the execution of this high trust must be re-

‘sisted ; and so far from being a reason why she should depart from a position which she has conscientiously, and out of a regard to Christ’s laws, assumed, the interposition of any other power, the introduction of any extraneous impulse, is the very reason why she should take her stand on that position,—firm and immovable as a rock. 2. Because nothing has occurred, in the least, to warrant a change or modification of the solemn decision to which the Church has already come, in the deliberate rejection of Mr. Young. If it was the Church’s duty to reject Mr. Young, it would have been a sin in the Church to proceed to his settlement ; and the sinfulness of such an act would have depended on the immutable principles of Christ’s government over his Church and people. The same act would be sinful now ; and no laws, and no interpretation of any laws, can oblige the Church to sin. The State may impose and enforce a law which the Church cannot without sin obey. The State may punish or persecute the Church for disobedience ; but the Church must still disobey. When the present law of patronage was enacted, it was not understood as compelling the Church to intrude unacceptable and unsuitable presentees. She did so voluntarily ; therefore she had the greater sin. Now, for the first time, by the late decision, the law is interpreted as imposing on the Church the obligation of doing, what she did too often of her own accord, but what now she would gladly cease from doing any longer. But the law cannot make that duty, which still is, in its own nature, sin. The Church’s course is plain : Let her testify,—let her suffer if need be ; but, let her not abandon the position in which now, as of old, she is called to glorify God, and to contend for the crown and kingdom of her Divine Lord and only Head.’

These are the practical views which the clergy of the Church and and their supporters are endeavouring, in weekly tracts, in which they are calling on the people to strengthen the hands of the Assembly’s Committee, to disseminate throughout the country.

In the course of a week after the publication I have last quoted appeared, the Commission of the General Assembly, at its meeting in August, took up a reference by the Presbytery of Auchterarder, for advice as to the course which they should follow, in consequence of the judgment finding that they were bound and astricted to take Mr. Young on trials as presentee, and, *if found qualified*, bound and astricted to receive and admit him as minister of the parish. Mr. Young had formally intimated that judgment to the Presbytery, and called on them to obey the law ; to the effect of ascertaining if there is truly, in the opinion of the Church, any objection whatever personal to him, in regard to ministerial gifts and qualifications, or otherways. The Presbytery applied to the Commission for advice ; and that body, following up the motion in May of Dr. Chalmers, came to the following resolution :—

‘The Commission having heard the reference from the Presbytery of Auchterarder, sustain the same. The Commission are of opinion that the application of Mr. Young is *incompetent*, not only because he was finally rejected by a sentence of Presbytery, which was not

‘ appealed from—a similar application having been directed to be refused by the Assembly of 1838, but also because it would be a *complete violation of the fundamental principles of the Church, in contravention of her standing laws*, and in defiance of the authority of last General Assembly, who, on a report of the Auchterarder case being laid before them, declared that no presentee should be forced upon the people ; as also, because it was opposed to the sentence of the Commission in May last. And the Commission are farther of opinion, that *no sentence of the civil court can justify their compliance*. The Commission farther considered the motion which was made by the minority of the Presbytery, to take Mr. Young on his trials, *hereby prohibit the Presbytery in any event on taking Mr. Young on his trials, as they shall be accountable*.’

This proceeding completely illustrates the nature and practical effects of the principles at present adopted by the Church.

I abstain from any comment on this last occurrence.

But I wish to direct the attention of your Lordship to the principles maintained by Mr. Candlish in the Commission of the Assembly, in supporting this resolution.

‘ He would simply ask whether the Church was prepared to induct in this case, not because they had changed their views, not because they had come to see it to be their duty, as a court of the Church of Christ, to induct a man contrary to the will of the people ; but merely because another tribunal—to which in all matters they cannot recognise subjection—had interposed. Such an interference afforded only another reason for standing fast in the course which had been adopted. With regard to the parish of Auchterarder, had the House any evidence that it was less reclaiming than before?—that Mr. Young would be the minister of more than two individuals? Was the Commission prepared to induct a man as pastor, when the flock declared conscientiously that he could not edify their souls? The members of Christ’s body were not to be spoken of precisely as children, over whom the Church should assert arbitrary power—over whom they should exercise any power. They were not to be spoken of as children would be with reference to tutors. Their *standing was far more high and sacred* than to permit them to be trampled on by the arbitrary power of a patron, or of Church Courts. Did they not find the Christian people—not the ministers and elders—were very differently spoken of through the whole New Testament ; ‘ To these we speak as unto wise men ; judge what we say ?’ The apostles *recognised the standing of the Christian people as so high, that even they must reverence it*. Was not the *sacred responsibility laid on the people of trying the spirits* ? And was it consistent with this responsibility that the flock of Christ should be represented in depreciating terms ? The members of the Church Courts were appointed, not to lord it over God’s heritage, as if they had power to disregard the voice of the people, and induct an unacceptable presentee.’

We have thus, then, the proof what are the consequences to the

country of these doctrines as to the independent and divine jurisdiction of the Established Church in ecclesiastical matters, and of the right of the Establishment to determine for itself, what is to be taken as an ecclesiastical and what a civil matter.

I would simply ask, of what avail are any regulations and provisions of the legislature in establishing a National Church, if the latter are to act upon these pretensions? Those which have been established for centuries are declared to be of no authority, and the judgments of the highest tribunals in the country openly set at defiance, on the ground that they are of no avail against the Church courts.

In supporting such doctrines, men forget that they are subjects of the country, and that the law recognizes no independent and separate character in the person of any members of the Established Church, whether ministers or laymen, which exempts *them* from the jurisdiction of the Courts which are to interpret the laws. If the decrees of the Courts are inconsistent with the private views of individuals as Christians, respecting the powers which Church Courts should possess, they ought to remember, that it is only from them, *as members of the Establishment*, that such obedience to the law is required in these matters which they think beyond the controul of law. *Their plain duty is to leave the Establishment when they cannot obey the law.* As members of a Dissenting persuasion, they can establish, for those who belong to the same opinions, any standard they choose to settle for the authority of the Church Courts of such bodies, or for the standing of the Christian people in the Church. But the law holds the members of the Established Church to be members of a body, which, receiving privileges, benefits, and emoluments by force of law, has been subjected to legal restraints in the very matters in which, when conscience prohibits such restraints, the law also protects and leaves *free* all who cannot on such terms be members of the Established Church.

But, to retain the *status* and *emoluments* which have been received in the character of *members* of the Established Church, and yet to declare, that the Church Courts and churchmen are exempted from the authority of the tribunals of the country, is precisely one of the most dangerous pretensions of the Church of Rome, and utterly at variance with the Confession of Faith.

So palpable is this inconsistency, that it has lately been argued that the claim of exemption from obedience to the civil power, which the Confession of Faith condemns, applies only to exemption of the *person* and *property* of members of the Established Church: But, *obedience to the law* is not implied in the condemnation of this doctrine in the Confession of Faith!!

All this ferment has been raised by the Assembly, and these perilous and alarming questions have been brought on as to the powers of the Church, and its relation to the State, because the Supreme Court of Scotland, and the House of Lords, decided that it was beyond the power of the Church, *as an Establishment*, to pass the Veto, in respect

of the statutes defining on that point the constitution of the Church. And yet what is now the actual admission publicly made by Dr. Chalmers, as to *his own opinion* respecting the competency and propriety of that step? Why, that the Veto *was* incompetent,—that the Church should have gone to the legislature in the first instance,—that he did not think that the Church could competently enact the measure, which he himself proposed in 1833, and that his opinion was overborne.

This is no unimportant fact in the review of this controversy, and in the consideration of the views, as to the independent jurisdiction and authority of the Church, on which the Church, on the motion of Dr. Chalmers, has now taken its stand.

I think it right to quote his statements on this matter.

Dr. Chalmers said, ‘there is one reason special to myself, why the position to which we are now brought, in virtue of this decision by the House of Lords, should be to my mind not so embarrassing, not so inexplicable, as many do imagine it. I, who first moved the Veto law, which has now had an adverse sentence pronounced upon it by the highest civil judicatory in this realm, feel no difficulty at least in stating my own view of the course which ought in consequence thereof to be taken. It may look a little overwhelming, first to have made a motion which was defeated in the Assembly by a majority of twelve; and then, after it had been carried on the following year by another, to have it again defeated, or rather overborne by a power without the Assembly, and that too a power, resistance to which might put to hazard the very existence of the church establishment in Scotland. This looks formidable enough; and yet I am at no loss for what I deem our clear and incumbent part, which, if but adopted, will, I think, make good for us a clear and satisfactory outgoing to the whole of the perplexity. I have only to *repeat the suggestion* which I made six years ago, at the outset of this measure, to its friends and supporters; and *which I dare say they now regret they have not acted on*. What I then thought and wished, and to which at that time I gave utterance in a club or conclave of advisers, I have only now to declare aloud in the open Assembly. The identical thing which then was whispered in the ear, I have only now to proclaim upon the house top.’*

He then stated his views as to the duties and powers of *Presbyteries* in *judging* of the fitness of a presentee for the particular charge to which he has been appointed, and of the *authority and jurisdiction* of the *Church Courts* in that respect—and declared that his opinion from the first had been, that the right course to follow was, that the Church should assert, as a general principle, the *RIGHT OF PRESBYTERIES to take into consideration every circumstance which touched the fitness of a presentee*, and then go to Parliament, that the concurrence of the legislature, as to the effect which might be given to the will of the people, might be obtained, for the purpose of ‘making sure that we did not forfeit’ that which the State can give or withhold.

* Revised Speech, p. 1.

‘That was the only principle on which I can vindicate the advice then given; and my only regret now is *that it was not taken*. I now regret with all my heart that my fears were overruled, by the high legal authority of those whom I felt to be greatly more competent than myself for a judgment on the effects of the step which was actually resolved upon. But *better late than never*. The *very measure* which I then advised, and which, if consented to, *would have prevented the BLUNDER*, I now advise over again, and that for the purpose of *repairing it*.’

Whatever may be the motives for the advice which Dr. Chalmers gave to the ‘high legal authority’ by whom he was overruled, this plain practical conclusion follows from the admission, viz. that the course taken was in his opinion incompetent and illegal on the part of the Church *as an establishment*—whatever, in the abstract, and apart from her relation to the State, he might hold it to be within her power. Even if he looked to the competency of the measure by an Establishment, chiefly as likely to lead to the separation from the Church of the legal provision in parishes for ministers—the measure on that limited ground alone, must in his opinion have been incompetent on the part of an *Established Church*, of which that provision is one of the distinguishing marks.

On this point, his original *conviction as a churchman*, is of far greater importance than the opinions of the lawyers to whom he deferred. It could not be on the question, taken as a mere legal point on the construction of the statutes, that Dr. Chalmers urged his views so anxiously on Lord Moncreiff and Mr. Solicitor-General Cockburn, and attached to them so much importance, that he takes the somewhat unusual step of recording the difference of opinion in private deliberations, between the framers of a public measure. He has certainly asserted his claim to the merit of having wished to take a much more cautious, constitutional, and even more legal course, than that, which against his own judgment, and in deference to the opinions of others, he then so gallantly proposed and unhesitatingly defended.

I am afraid that this admission must detract something from the weight due to his views and proposals on a great public question. No one could have imagined that his own conviction as a churchman was opposed to the competency and propriety of the practical measure, which in 1833 he proposed at once for *immediate* adoption by the Assembly as an *Established Church*, without waiting for the concurrence of the State.

But the material point for reflection, and for the consideration of others is, that the very author of this measure—(which he claims as peculiarly his own)—believed, as a churchman, the course which the Church took to be, for an establishment, unconstitutional and unsafe. As a *civilian* and a *lawyer*, he could not think that his opinion (though it has turned out the better one) was to be urged upon and maintained against ‘the high legal authority to which he deferred.’ But as a *churchman*,—deeply interested in and having reflected much on the principles of an established church, and on the relation of the Church

to the State—the opinion which he held in private before these discussions arose, before the Church was committed to any step, is of the highest importance. When we are told that the decision of the House of Lords assails the independence of the Church and invades the rights which it derives from its Great Head,—when the country is so loudly called upon to support the Church in her resolution to act in defiance and in disregard of that judgment; it is enough for most now to know, that the course originally adopted, and which is so resolutely adhered to, was, in the deliberate judgment of Dr. Chalmers, against the duty of the Church *as an establishment*, and beyond her competency *as such*—and that the very embarrassments in which the Church is placed, were fully in his view and predicted by him.

‘Better late than never.’ Alas! he does *not* now, when it is not *too* late, propose to do the thing which he formerly wished. ‘The measure which I then advised, and which if consented to, would have *prevented* THE BLUNDER, I now advise over again, and that for the purpose of repairing it.’ Why, the thing originally advised is not what Dr. Chalmers now proposes. ‘THE BLUNDER’ which he desired to *prevent* is not now ‘to be *repaired*.’ Such is not the motion, which, on his proposition, the general Assembly adopted. How is the Blunder of not *first* getting the concurrence of the State, *before acting* on the views of the Assembly and enforcing the Veto, corrected or repaired? The course taken is the very reverse. ‘We *did right*—we did what *was* within our power—what was perfectly constitutional, fitting and proper for an establishment to do, without consulting the State or taking the State along with us: Therefore we adhere to it, be the consequences what they may. True, the Courts have found that the State ought to have been taken along with us—what is that to us? We cannot then claim what the law will not give us. But *we*, one of the two bodies interested in the matter, chose to act for ourselves—we *adhere* to what *we* did—we *desire* the *other* to *concur* in *what has been done*, and *finally* done, by us.—If not, we abide by that measure without regard to results.’

This is the language and result of the motion. Dr. Chalmers admits that, ‘from his own inability to put his motion into a practical shape,’* he gave it to others for this purpose, and one is led to suspect that he had not seen *the practical* shape which in their hands it *did* assume. It may have been originally as strong in assertion of principle,—but it is strange that, if he had seen the practical result of the motion as framed, he should have made the disclosure I have now alluded to,—much more have declared that he wished to ‘*repair* THE BLUNDER’ he had in vain attempted to prevent. ‘*Better* to do it *late* than *never*.’ That was what it was expected (I may say, known) that Dr. Chalmers *intended* to do. But for what purpose this disclosure and statement, looking to the motion which he actually brought forward? What acknowledg-

* See Newspaper Reports.

ment, still more, what *reparation*, is there of 'THE BLUNDER?' By disclosing his original private conviction, Dr. Chalmers has deprived the Church of the whole weight of his authority as a Churchman in support of its present position; while that, which he actually proposes, just leaves '*the blunder*' precisely where it was, without abatement, counteraction, or palliative.

When the thing has been done,—when the practical consequences of the Establishment following its own course without the concurrence of the Legislature, are demonstrated and brought home to the Church by the judgment of the House of Lords, and by its admitted results;—*then* to ask the Legislature to *relieve them of these results*, which may deprive the Church of its sustentation, and at the same time to *persist in carrying* the measure, which had been declared illegal, *into effect*, seems but an imperfect mode of *repairing the blunder*. Those who originally differed from him in the '*club or conclave*,' would, I suppose, enter into that equally with Dr. Chalmers. All who have taken a step against law, but to which they resolve to adhere, naturally wish to be relieved of the consequences of the illegal act, and to obtain for it the sanction of legality. The law, as found by the House of Lords, cannot be altered but by act of Parliament. There was nothing peculiar then in suggesting such an application. It had no more connection with Dr. Chalmers's private opinion than with the opinions to which he deferred. *The blunder* was in no degree repaired, if the state will not concur. What was '*the blunder*?' Why, doing the thing *without* the concurrence of the other Body interested in the measure. Two great Bodies were equally interested,—two (*Dr. Chalmers says*) independent, co-ordinate Bodies,—each in its own sphere and department. A mutual relation subsisted between them, which was the subject of acts of Parliament made by the one, and not hitherto repudiated by the other. A thing was done by the one directly affecting these statutes, without consulting or communicating with the other. There was no desire for a disunion—none for assertion of independence. Then ought the other great Body to have been consulted *before* the measure was passed which affected their mutual relation? 'Yes,' says Dr. Chalmers, 'I always thought so; we ought to have taken the state along with us. Let us now repair "*THE BLUNDER*" we committed. The consequences will be serious. I said, from the first, that the course we took was wrong. Better late than never. Now, take the course I at first suggested.'

Is that done? Not at all. The Church does *not* now go to Parliament saying, 'We admit that, as an *Establishment*, we cannot go against the acts of Parliament. They impose on Presbyteries, as the Church Courts of an Establishment, a clear duty. But we think that condition is too stringent; it fetters us too much. We admit that both parties must concur in an alteration. We wish to reconcile our plan with what has been found by the courts to be the conditions of the Establishment, or to have the law altered by one who alone can alter

'it. Our duty is clear: We do not refuse to perform it: We do not continue to enforce the Veto until we get the sanction of the State: We do not discuss or reassert the law: We obey it: We shall continue to act as we did until 1834: We were in error in thinking we could relieve ourselves of our statutory duties imposed on us as an Establishment: We are required to take on trials, and to receive and admit, qualified presentees: We see that it is our judgment which is to decide,—that we must exercise it,—and we intend to do: But we think the will of the people ought to be expressed, and effect given to the same,—that no one should call upon us to take him on trials whom the people refuse: And we now propose to you so and so.'

This would have been the course to adopt; repairing the blunder as Dr. Cook proposed; and then going to Parliament with whatever proposition the Assembly thought proper to propose.

But the course is this—'We have, without consulting you, adopted a particular measure. The courts have decided it to be beyond our powers. Certain effects we know must follow from their judgments. We cannot avert these or help ourselves. But we re-assert what we have done, before now coming to you. We declare that it is final. At the least we go that length without consulting you. We have solemnly and irrevocably declared that we will not depart from the step taken:—We have directed our Presbyteries to enforce it, be the consequences what they may. We tell you, the other party interested, that we do so adhere to that which we have done. Nay, more, we tell you the judgment of the House of Lords is wrong; we intend to demonstrate to you that the opinions of the Lord Chancellor and Lord Brougham are utterly wrong. But if you think them right, we declare that the Established Church *will not perform the duty* which the original statutes impose upon her; she will not give effect to the judgment of the House of Lords, be the consequences what they may. But now give your consent to what we have done. The consequences are most serious to us as an Establishment. We see that we may forfeit the provision for the ministry when the Veto is acted on. Hence, consent then,—it will be a very convenient way to repair **THE BLUNDER** we have committed, and to get us out of the difficulty. We ought not to have acted before consulting you; you are the other great body in the relation of Church and State; you fixed certain matters which we did not refuse to take from you as so fixed. We have done something directly in face of these statutes—so the Court have found. But we abide by our acts; we mean to enforce them whether you will or not; but we ask you to consent as the course which we think best for us.'

Is it not plain, that, on Dr. Chalmers's own acknowledgment of 'the blunder,' the Church should, if they concurred with him in his views as a churchman, have withdrawn, or suspended, at least, this Veto, and have gone to Parliament with a proposal, before doing anything themselves.

True, the leading supporters of Dr. Chalmers view the whole original question in a different light from that which this confession by him implies. They take different ground. I fear, those who 'put his motion

‘ into practical shape,’ gave it a turn which he did not perceive. But, with the country, with the government, and the legislature, it is matter of important reflection to know, that the course which has produced these embarrassments, was originally adopted against the deliberate judgment of a man, in whose genius and talents Scotland takes such pride, and whose zeal for the welfare or the privileges of the Church, is second surely to none.

III. I am persuaded that your Lordship will regard these proceedings, on the part of the Assembly of the Church of Scotland, as fruitful sources of embarrassment, and as containing the elements of much confusion and disorder.

The open announcement, by an Established Church, that they will continue to act in violation of statutes, disregarding a solemn judgment of the House of Lords, obtained on an appeal taken by themselves in order to settle and determine the *competency* of their proceedings, is an alarming and unexampled proceeding.

The measure affects the civil rights of parties secured by statute. That *wrong should be done*, openly, deliberately, and without disguise, by continuing to invade and encroach upon these rights; and that the parties should be told, that the judgments of the Courts of Law are to be set at defiance, and to afford them no protection, is no light matter. But, that such an unexampled occurrence should take place on the *part of the Established Church*, and in the present day, when that Establishment has experienced, to its astonishment, such fierce assaults on the principle of an establishment, from an important part of the religious community of Scotland, the old Presbyterian Dissenters, does appear most singular infatuation.

It is not perhaps easy to say that there are any *more* serious consequences from these proceedings, than the wrong done to civil right and the disregard of the judgments of Courts of Law.

The strong feeling of injustice which such proceedings necessarily engenders, and the general sense of the danger which such an example creates, tends to alienate many from the Establishment—to occasion doubts with some as to the *peculiarities* in that Constitution, which gives, for a time at least, to agitation and extreme opinions such predominance, and to create a distrust of the views and objects of the clergy in their proper sphere. There is no stronger or more universal feeling among mankind, than *the sense of injustice*:—For all feel that their own rights may be the subject of attack from one quarter or another. And the necessity of protection by Courts of Justice, and of obedience and submission to final decrees of such Courts, on questions either of right or power, is pressed on the minds of all by the exigencies of daily life, and by constant observation of the incalculable evils which would result from the absence of such protection and such authority.

So strong and general is this feeling throughout the country on this subject, that I am assured from many quarters, that, with the exception

of a newspaper supported by ministers of the Church as a religious paper, and of one other newspaper, all the newspapers throughout Scotland, of whatever politics, have condemned the conduct and acts of the Church throughout these proceedings.

But I fairly own, that the wrong to civil rights, and the disregard and defiance of the judgments protecting these rights, appear to me to be but a part of the considerations which this review of the proceedings of the Church opens up.

Usurpation is the fruitful parent of a multitude of wrongs; and those embarked in it are soon led, (even if the original spirit were not one of intolerance), to defend and support themselves when they have the power, by greater acts of injustice, in order to overcome opposition, or to stifle and crush complaint.

I beg to request the attention of your Lordship, 1st, To the conduct proposed to be followed towards those who have opposed the Veto act as incompetent; and, 2d, To the assumption of power by which this course has been defended.

It has often struck dispassionate observers as a remarkable fact, with how much disregard the clergy, once placed in cures in Scotland, often treat the rights and status of Licentiates. In no Church, probably, is the status of the individual licensed to preach the gospel, kept in such inferiority to the status of the minister who has got a benefice, as in the popular Church of Scotland, or his rights so little attended to, when any question occurs in the Church.

In passing the Veto act, the risk of grievous cruelty, of frightful and galling injustice to licentiates, was utterly disregarded. It was no slight matter to subject the numerous class of young men, who *had* obtained their licences to the perfect satisfaction of the Church itself, to such an ordeal, which, on entering into their profession, *they had no reason to anticipate*, and from the very notion of which many a pious and sensitive mind would shrink with aversion. But it is not to present licentiates alone, that the matter is important. The clerical profession, or rather I should say, the desire of entering on the office of the holy ministry, determines a person's views, studies, and pursuits for life—requires great labour, the study of many years, great sacrifices in early life, through which the hopes of future usefulness, and the prospect of that reward to which the faithful pastor may aspire, perhaps could alone support many a young man, during years of early discipline, privation, and obscurity. The incidental and collateral openings for any livelihood connected with the Scotch Church, may be said to be so rare, as not to exist. A parochial charge is the object of the licentiate, and his only object; and, when obtained, the income after all leaves him a life of struggle, of care, and of anxiety. The Church undertakes the direction of the studies of those desirous of entering the Church,—prescribes their studies,—takes them under its peculiar charge for three or four years in the Divinity classes, where the Professors have oppor-

tunities, which they faithfully employ, of studying and directing the views of the candidates for the Church,—*prescribes and appoints trials of every qualification and gift* by the Presbytery from which the young man is to receive his license, which declares him qualified to preach the gospel, to assist the ministers of the Church, and qualified to receive a presentation to any living.

These trials are of a very important and serious description,—they may, and do, extend to every thing the Church chooses to prescribe and to exact, in addition to a course, I believe, of eight years of previous study. They relate to attainments in literature and theology—to dispositions—views of pastoral duties—and fitness for the same in all points. I am not aware of any limit, either to the nature of the inquiries, or to the strictness of the examinations which the Presbyteries may conduct. The candidate for orders must preach and lecture to the Presbytery :—They need not pass him on his *first* trials, but may remit him again to his studies. They may direct and exhort him as to the mode and style and objects of his preaching :—They have full opportunities of judging of his fitness for the duties and labours of the ministry,—the Church may reject him if, on any ground whatever, they think him unfit. The Church has unlimited authority to reject,—unlimited authority to select,—on any views which they choose, so as to secure the best possible class and order of licentiates :—Upon their power to reject those seeking for licenses there is no restriction.

There is no degree of watchfulness, of jealousy, and strictness, which they may not enforce,—and the greater the vigilance the better. They have it in their power to direct the views of pastoral duty,—the style of preaching,—the objects of clerical duty which shall be attended to :—and the very fact that these examinations are conducted by such a court as a Presbytery, is a sufficient warrant that there can be no remissness through the carelessness of an individual.

Above all, the estimate and view of pastoral duty, which the candidate possesses, who is desirous to enter the ministry—the seriousness of his views—the sincerity of his religious feelings—and the devotional turn of his mind, are the very first and most important points of inquiry by the Presbytery before they grant the license. The young man must have been for four years under Divinity professors, with whom he goes through constant exercises in every branch of his intended duty ;—they have ample opportunities, before they grant their testimonials, of judging of the frame and temper of his mind. Then the exercises before the Presbytery, to whom he must preach and lecture repeatedly, (and the Church can prosecute these trials as far as they choose), may surely enable the Presbytery, experienced ministers of the Church, to see most satisfactorily whether the individual is coming forward with proper notions as to the functions and objects of the ministry, and possesses the religious feelings and devotional turn of mind essential for the sacred character. The protection is or may be here complete. The Presbyteries are bound to protect the country, by the manner in which they select candidates for the ministry. And there is no degree of rigour or anxiety in these trials which could or ought to be complained of.

When these trials are gone through, and the individual is licensed by the Church itself, and has obtained, perhaps after much anxiety and long delay, a presentation, (and it is not immaterial here to notice, that so small are the livings of the Scotch clergy, that such a thing is hardly known once in fifty years, I believe, that to any of the family of the patron, the living is ever an object, or the Church entered by any of that class), what can be so cruel,—what injustice so great, as that the Church itself shall then allow the majority of the congregation at once, and arbitrarily, and without cause assigned, to reject the individual, and to prevent even the Presbytery (in which the parish lies), from inquiring into, or judging of, the reasons of rejection.

The Church disables itself from doing justice,—from repairing injustice. They cannot, by their act, take the individual on trials. The Veto is peremptory—is final. The people have at present the right,—and that they should have it is most fitting,—of submitting to the Presbytery *every ground of objection of whatever kind*, which they may entertain against the individual, to the clergymen of the Presbytery. But an arbitrary rejection,—especially when that is not a part of the election,—but a privilege, after hearing a person preach once or twice, it may be without further knowledge of him,—ruins the individual's prospects for life,—and sends him to spend in bitterness and misery a life of obscurity, marked and crossed only by the painful notoriety of this rejection,—which it is needless to say, will, in most cases, both deter other patrons from presenting him, and lead, almost as a matter of course, other parishes to refuse to take the man not deemed good enough by their neighbours.

There was much cruelty in the regulation which *introduced*, and so suddenly, this new and singular ordeal.

But the utter disregard for the interests of the licentiates soon exhibited itself in a very remarkable manner.

The promoters of the measure had never contemplated the possibility of licentiates daring to question the legality and competency of the Veto. And they thought that, if *they* submitted, the patrons could not then help themselves, or successfully resist; for if the presentee, when rejected, withdrew, and renounced his presentation, the patron of course had nothing for it but acquiescence. As soon as it was found that some licentiates were proceeding to contest the legality and competency of the Veto Act, manifestations appeared of a spirit of intolerance and persecution, which it was lamentable to see in a reformed Church. In various Presbyteries of the Church, a menace was held out, that if the licentiates dared to dispute the power of the Church to pass and enforce the Veto Act, or presumed to maintain that the constitution of the Church was fixed by the authority and laws of the Legislature, the Church Courts would deprive them of their license; and thus, by depriving them of the right vested in them by the presentation, attempt to cut short all such discussions. In proportion as the discussion of the legality of the Veto Act approached, these menaces assumed a more definite form, and overtures were sent up to the approaching Assembly of 1838, to exact obedience to the Church (that was the phrase) from all preachers

or licentiates, by forcing them to submit to the Veto Act, under the penalty of being deprived of their license, for the crime of exercising their rights, both as British subjects and as members of the Church, to try in a court of law the extent of the authority of the Church, in regard to the statutory right of patronage, and the competency of the new measure, which had been passed.

When the judgment of the Court of Session, in spring 1838, was pronounced, carrying along with it (it is believed) a greater unanimity of opinion on the part of the profession, than probably on any constitutional question previously decided in a court of law, this intolerant spirit,—this practical tyranny of the worst character,—broke out in a very memorable manner.

It was accompanied by a claim for power on the part of the Church, of the most alarming and formidable description.

A resolution as to what was called the Independent Jurisdiction of the Church, was moved and carried, in the following terms, (May 23, 1838):
 ‘ The General Assembly having heard and considered the overtures on
 ‘ the Independent Jurisdiction of the Church of Scotland, agreed, by a
 ‘ majority, to the following resolution :*

‘ That the General Assembly of the Church of Scotland, while they
 ‘ unqualifiedly acknowledge the exclusive jurisdiction of the civil courts
 ‘ in regard to the civil rights and emoluments secured by law to the
 ‘ Church and ministers thereof, and will ever give and inculcate impli-
 ‘ cit obedience to their decisions thereanent, do resolve, That, as is de-
 ‘ clared in the Confession of Faith of this national Established Church,
 ‘ the Lord Jesus, as king and head of his Church, hath therein appoint-
 ‘ ed a government in the hands of church officers, distinct from the civil
 ‘ magistrate, and that in *all matters* touching the doctrine, government,
 ‘ and discipline of *this Church*, her *judicatories possess an exclusive*
 ‘ *jurisdiction*, founded on the word of God, “ *which power ecclesiastical*
 ‘ “ *(in the words of the Second Book of Discipline), flows immediately*
 ‘ “ *from God*, and the Mediator, Jesus Christ, and *is spiritual*, not having
 ‘ “ a temporal head on earth, but only Christ, the only spiritual king and
 ‘ “ governor of this kirk ;” and they do further resolve, that this spiritual
 ‘ jurisdiction, and the supremacy and sole headship of the Lord Jesus
 ‘ Christ, on which it depends, they will assert, and at all hazards de-
 ‘ fend, by the help and blessing of that great God who, in the days of
 ‘ old, enabled their fathers, amid manifold persecutions, to maintain a
 ‘ testimony, even to the death, for Christ’s kingdom and crown ; and,
 ‘ finally, that *they will firmly enforce submission to the same*, upon the
 ‘ *office-bearers and members of this Church*, by the execution of her
 ‘ laws, in the exercise of the ecclesiastical authority wherewith they are
 ‘ invested.’†

* Acts 1838, p. 29.

† It may be right to notice that the whole of the first part of this resolution is not in the words of or taken from the Confession of

This resolution was carried avowedly and directly with the intention of maintaining the independent authority of the Church, as a *prac-*

Faith, although it is accidentally worded so as to appear to carry with it that authority. The first *clause* of the sentence is,—into the words, ‘distinct from the civil magistrate,’ inclusive. The remaining and very material clause of the sentence which precedes the quotation, (viz. the proposition as to the exclusive jurisdiction of the judicatories of the Church), is not taken from the Confession of Faith, in which there is no such proposition. In the Confession of Faith, chapter 30, after the words—‘hath therein appointed a government in the ‘hands of Church officers, distinct from the civil magistrate,’—there follows an anxious specification of the *powers* committed to these Church officers by the Head of the Church, which are wholly and purely spiritual; and accordingly, the whole of this chapter of the Confession of Faith, as to the government of the Church in the hand of Church officers, by the appointment of the great Head of the Church, is under the title of Church censures. The second *clause* in this sentence of the resolution,—‘that in *all* matters *touching* the doctrine, government, ‘and discipline of this Church, her judicatories possess an exclusive jurisdiction founded on the word of God,’ is not in the Confession of Faith at all. No such words, or any thing like them, are to be found in the Confession of Faith. This part of the resolution is not so worded as *necessarity* to import that this proposition is in the Confession of Faith, and doubtless such impression was not intended to be conveyed: But it requires very accurate and attentive examination of the sentence to arrive at the conclusion, that the authority of the Confession of Faith is not referred to for *this* proposition, as well as for the first clause of the sentence. The doctrines in the Confession of Faith do not afford any warrant for such a claim. Whatever exclusive *ecclesiastical* jurisdiction can be claimed for the Church judicatories, must be derived from the statute 1592, which bestows ecclesiastical jurisdiction in very special and limited terms. See the 31st chapter of the Confession of Faith, as to Synods and Doctrine, referring to the 30th chapter, and limiting the objects of such synods to the matters set forth in the 30th. See also chapter 23, in which it is set forth.

‘III. The civil magistrate may not assume to himself the administration of the word and sacraments, or the power of the keys of the kingdom of heaven; yet *HE hath authority*, and it is *his duty* to take order that unity and peace be preserved in the Church—that the truth of God be kept pure and entire—that all blasphemies and heresies be suppressed—all *corruptions and abuses in worship and discipline* prevented or reformed, and all the ordinances of God duly settled, administered, and observed. For the better effecting whereof he hath power to call synods, to be present at them, and to *provide that what-soever is transacted in them be according to the mind of God.*’

This section fully proves that the Confession of Faith did not mean to lay down as a point of doctrine, any proposition as to the *exclusive ecclesiastical* jurisdiction of any particular Church judicatories. The

tical matter, against the decision of the Court of Session. The speech of the mover of it referred throughout to the opinions of the judges, which were declared to be wholly inconsistent with the claims of the Church. The doctrine was publicly broached, that *all parts of the Second Book of Discipline had received the sanction of the State, unless a positive statute could be produced rejecting any portion of it.* It was contended, that the Church of Scotland, in allying itself with the State, *was shackled by no bond,—and possessed all the authority and jurisdiction which it chose to declare formed part of the inherent and unalterable powers of the Christian Church.*

Confession of Faith on all these matters is entirely general. It does not profess to lay down any thing as to the arrangements of any particular church, (it was not framed exclusively for the Church of Scotland), respecting *ecclesiastical* judicatories and their jurisdiction. It draws the distinction as to the *spiritual* government of the Church. And it does limit, as matter of doctrine, the jurisdiction which ought to belong to synods and councils, whatever these may be in any particular church : and a most important part this is of the Confession of Faith, which, let it never be forgotten, is the statute law of the land. Having stated what is the spiritual authority of the Church, (see a subsequent note), and having specially and anxiously limited the authority and jurisdiction to be claimed for the Church Courts, in respect of their spiritual character, the Confession of Faith goes no further. It left to either Church (being intended as a Confession for both kingdoms) to regulate the distribution of *ecclesiastical* jurisdiction as might be found to be expedient. The arrangements for the Presbyterian Church of Scotland, after being prepared by the Church, were specified and fixed by act of Parliament, which declared how the government of the Church should be conducted, but specially omitted that general and supreme authority which had been asked for in the Second Book of Discipline.

Assuming, then, that this second clause in the sentence does not mean to appeal to the Confession of Faith, (in which no such proposition is to be found), it comes then to be an original and substantive resolution of the General Assembly 1838 in favour of its own jurisdiction. And this is asserted and promulgated in order to lay a ground for denying the authority of the judgment of the House of Lords in a question between the Church and the subjects of the realm. ‘*Exclusive jurisdiction in all matters touching the doctrine of this Church.*’ Take even this part of the declaration. It is manifestly unsound. The Church cannot alter any one article of the Confession of Faith—cannot *add* to the same. The doctrine of the Established Church is fixed by statute. So also as to *government* and *discipline*. The Church cannot alter the one or enlarge the other. It must administer both as fixed by statute, and within the limits, and according to the rules and forms prescribed by law, and in the maintenance of these matters as fixed by law, every subject of the country has a most material interest. But it is needless to pursue this point farther, for it is the *practical* effect of this resolution, in regard to the matters in question, which it is material to consider.

The language asserting these powers is uniformly vague. It may be applicable only to the *spiritual* superintendence of the particular Church over its members and ministers—as to which all Christians must agree :— But it is comprehensive enough to embrace whatever the particular church or churchmen using it, choose to declare and hold to be within these inherent powers. In this instance, the direct declaration that the resolution was proposed in consequence of, and in opposition to, the judgment of the Supreme Court, which declared the Veto law to be against the statutes, which adopted the Church as an Establishment, or regulated its constitution, left no doubt as to the practical objects of this resolution.

This resolution was followed up in a few days by the direction of the Commission of the Assembly in the Lethendy case, to proceed to settle and induct Mr. Kessen, in direct violation of the interdict of the Supreme Court,—thus illustrating the *practical effects of these principles* very speedily.

The Assembly in this Resolution claimed, (in the words of *that* portion of the Second Book of Discipline *which the Legislature in 1592 did not sanction*), ECCLESIASTICAL power, as a matter SPIRITUAL, flowing from Divine authority.

I have adverted in the preceding Note to the misapprehension which the Resolution may create as to the Doctrines in the Confession of Faith. But the reference to the Second Book of Discipline, in order to arrive at the conclusion that *all Ecclesiastical* authority which the Church may have, is *spiritual*, and *flows immediately* from God and the Mediator, must be separately noticed.

Let me request your Lordship's attention to the claims on the part of the Church, originally put forth in this part of the Second Book of Discipline, and, to the astonishment of all intelligent men and of all friends of civil and religious liberty, revived in the nineteenth century, in order, on the one hand, to establish the right of the Church to maintain an *Ecclesiastical* power as independent of the decisions of the Courts of law on the statutes relating to the Church ; and on the other hand, by the exercise of a tyrannical authority over the licentiates of the Church, to crush the opposition which by that time had succeeded in establishing by a solemn judgment that the Assembly had exceeded its competent authority in passing this Veto act.

The Second Book of Discipline was framed after the death of Knox, during the contests which were carried on with King James and his Court for the establishment of some form of Church government more nearly approaching to that of Geneva, than the form to which Knox had at last reluctantly assented. It was the production of different minds—of men of far less enlarged capacity for public affairs than Knox. Their views ran naturally into extremes, from the consequences of the struggles in which the clergy were engaged, and of the disgust produced by the deceitful conduct of the Court. The object of its framers was to invest the Church with authority which might controul the State in almost every department, or at all events relieve the Church from the risk so justly apprehended, that whatever power was left with the Sovereign or the State

would be used against the Church. And the power claimed in this part of the Second Book of Discipline is, to be sure, an armoury from whence, if it forms any part of the standards, or is the depository and record of the constitution, of the Church of Scotland, weapons may be drawn, according to the taste and temper and notions of each combatant or of each age, which will level with the ground alike the prerogatives of monarchy, the authority of Parliament, and the rights and liberties of the people.

The memorable passage,—referred to in the above resolution,—which illustrates strongly the spirit of usurpation and the love of power, which a contest for an establishment is apt to engender, on the part of those who have contended with ardour and zeal, through the struggle, (in itself a glorious and immortal struggle, one of the most memorable in the annals of the world, and full at once of encouragement and instruction for mankind in all future ages,) and the excesses into which the appearance of approaching triumph, even in the best cause, is apt to carry the human mind, is in the following terms:—

‘ Of the Kirk and Policie thereof in generall, and quhair it is different from the Civil Policie.*

1 ‘ The Kirk of God is sumtymes largely takin for all them that ‘ professe the Evangill of Jesus Christ, and so it is a company and a ‘ fellowship, not onely of the Godly, but also of hypocrites, professing ‘ alwayis outwardly ane true religion. Uther tymes it is taken for the ‘ Godlie and Elect onlie, and sumtymes for them that exercise spiritual ‘ function amongis the congregation of them that professe the truth.

2. ‘ The Kirke in this last sense has a *certaine power granted be* ‘ *God*, according to the quhilk it uses a proper jurisdiction and govern- ‘ ment, exercise it to the comfort of the hole kirk. This power, eccle- ‘ siasticall, is an authoritie grantit be God the Father, throue the Me- ‘ diator Jesus Christ, unto his kirk gatherit, and having the ground in ‘ word of God; to be put in execution be them, unto quham the spiri- ‘ tual government of the kirk be lawful calling is committit.

3. ‘ The *policie* of the Kirk *flowing from this power* is an order or ‘ forme of spiritual government, *quhilk is exercisit* be the members ap- ‘ poynted thereto be the Word of God: And therefore is given imme- ‘ diatly to the office-bearers, be quhom it is exercisit to the weile of the ‘ hole bodie. This power is diverslie usit. For sumtyme it is severally ‘ exercisit chiefly by the teacharis, sumtyme conjointly be mutual con- ‘ sent of them that beir the office and charge efter the form of judgment. ‘ The former is commonly callit *potestas ordinis*, and the uther *potestas* ‘ *jurisdictionis*. These two kinds of power have both one authority, ‘ one ground, one final course, but are different in the manner and forme ‘ of execution, as is evident be the speiking of our Master in the 16 and ‘ 18 of Matthew.

4. ‘ This power and policie *ecclesiasticall*, is different and distinct

* Peterkin, p. 109.

‘ in the awin nature from that power and policie quhilk is callit the civil power, and appertenis to the civil government of the common wealth. Albeit, they be both of God and tend to one end, if they be rightlie usit, to wit, to advance the glorie of God, and to have godlie and good subjects.

5. ‘ For this power *ecclesiasticall* flowis immediatlie from God, and the Mediator Jesus Christ, and *is spiritual*, not having a temporall head on earth, but onlie Christ, the onlie spirituall King and Governor of his Kirk.

6. ‘ It is a tittle falslie usurpit be Antichrist to call himself head of the Kirk, and aucht not to be attribute to angel nor man, of what extract that ever he be, saving to Christ, the onlie Head and Monarch of the Kirk.

7. ‘ Therefore, this power and policie of the Kirk sould leane upon the word immediatlie, as the onlie ground thereof, and sould be tane from the pure fountaines of the Scriptures, the Kirk hearing the voice of Christ the onlie spiritual King, and being rewlit by his laws.’

It will be observed how skilfully, in this paragraph, the proper *spiritual* authority of ‘ the Church ’ is blended and mixed up with the *ecclesiastical* polity and power of any particular church. The *object* of this exposition and assertion was to derive all *ecclesiastical* authority directly from the word of God—to refuse to accept from the State any Church constitution—and to deny the right of the State to regulate and determine such, or controul and mutilate the powers which the Church thought that it alone should possess ; and to claim for the Church Courts an *ecclesiastical* authority directly from God, which should exist from the first as independent of the State, and in no degree flowing from its enactments. That *ecclesiastical* authority ‘ in all matters touching the doctrine, government, and discipline of this Church ’ (taking the words of the Resolution of 1838,) the Second Book of Discipline declared to be *SPIRITUAL*,—thus *blending together two matters wholly distinct and separate*, and claiming divine authority in every thing *ECCLESIASTICAL* for the Church, on grounds which excluded any reference to the authority of the State, in considering the constitution or powers of a national Church. The authors of this book then proceeded to set forth one system of *ecclesiastical* polity as flowing from the Word of God—claimed the power of election to *ecclesiastical* charges for Presbyteries—denounced patronage ‘ as contrary to the order which God’s word craves ’—claimed the *whole possessions of the old Church*—proposed to exclude from the right of voting in the national Assembly all but *ecclesiastical* persons, (thereby destroying one of the most valuable parts of Presbytery, as ultimately established in Scotland, viz. the mixture of laymen in her Church Courts)—and proceeded to expound the jurisdiction which the Church was to exercise in virtue of its divine power, in terms so comprehensive, that if this pretension, now revived by the Church of Scotland, had been admitted, the whole power of the State would have been prostrated before it.

In the heat and excitement created by the decision of the Auchterar-

der Case, the General Assembly were led to adopt a resolution which *appeared* to ascribe to the Confession of Faith, (that admirable form of sound words,) the doctrines as to the power of the Church, which in reality were only to be found in the Second Book of Discipline, and to convey to the minds of the people of Scotland, that the independent jurisdiction *therein* claimed had been recognized by the Confession of Faith, that is, by statute, to the extent set forth in the Second Book of Discipline. But even if the authority of the Confession of Faith is not appealed to in this resolution for the assertion therein put forth respecting the jurisdiction of the Judicatories of the Church, there is no doubt as to the extent of the claim itself. The words of the resolution on this point are explicit; the reference to the Second Book of Discipline exhibits both the nature and the grounds of the claim.

It is very grievous to the mind of sincere Presbyterians to have such things declared as to *ecclesiastical* jurisdiction by the Assembly of their Church. But it implies no irreverent disrespect to think, that in moments of such excitement, and when thwarted in the exercise of incompetent power, errors may be fallen into which the Church itself would willingly bury in oblivion.

It is gratifying to those who shrink from this assertion of the power of the Church, to turn to and quote the sound and cautious description of the spiritual government appointed in the Church, which is contained in the Confession of Faith, from not one word of which can any warrant be drawn for the resolution respecting the *ecclesiastical* jurisdiction or authority of the Church of Scotland.*

* C. 30 of Church Censures.

‘ I. The Lord Jesus, as King and Head of his Church, hath therein appointed a government in the hands of Church officers, distinct ‘ from the civil magistrate.’ (This is the passage just referred to in the resolution. Observe the description which follows of the government so entrusted to Church officers by the Head of the Church.)

‘ II. To these officers the keys of the kingdom of heaven are committed, by virtue whereof they have power respectively to retain and ‘ remit sins—to shut that kingdom against the impenitent, both by the ‘ word and censures—and to open it unto penitent sinners, by the ministry of the gospel, and by absolution from censures, as occasion shall ‘ require.

‘ III. Church censures are necessary for the reclaiming and gaining ‘ of offending brethren; for deterring of others from the like offences; ‘ for purging out of that leaven which might infect the whole lump; ‘ for vindicating the honour of Christ and the holy profession of the ‘ gospel; and for preventing the wrath of God, which might justly fall ‘ upon the Church, if they should suffer his covenant, and the seals ‘ thereof, to be profaned by notorious and obstinate offenders.

‘ IV. For the better attaining of these ends, the officers of the ‘ Church are to proceed by admonition, suspension from the sacrament ‘ of the supper for a season, and by excommunication from the Church, ‘ according to the nature of the crime and demerit of the person.’

Your Lordship will recollect that the statute 1592, establishing Presbytery—which does not name or recognize either the Second Book of Discipline or any code framed by the Church—proceeded in a very cautious manner, for it requires the presence of the king or his commissioner in each General Assembly; and that his majesty or commissioner shall appoint the meetings of the same; and establishes the General Assembly, Synods, and Presbyteries, with jurisdiction in the *limited and cautious* terms already quoted.*

But in utter disregard of the notorious facts relative to the history and constitution of the Church, and to the history and fate of this Second Book of Discipline, the Assembly of 1838 put forth the alarming pretension of claiming independent jurisdiction to the extent and on the authority stated in that work,—and for what purpose? Why, to *assert their right to PASS AND ENFORCE* the Veto act, without the least reference to the question of their *statutory* powers under acts of Parliament, and to *DENY THE AUTHORITY OF THE COURTS OF LAW*. And then, in that intolerant spirit, which ever guides the *exercise of power*, which men persuade themselves they possess and are entitled to use by *divine commission*, they announced that they would ‘*enforce sub-mission* to their power on *all OFFICE-BEARERS and MEMBERS OF THE CHURCH*, by the ecclesiastical authority wherewith they are invested;’ intending, as *was avowed*, to deprive all preachers of their licences, and (as many things indicated) to proceed against *all members* of the Church, who might not acknowledge the competency of the acts which the court had found to be illegal and contrary to statute.

I refer your Lordship to the Appendix for the reasons of Dr. Cook and others against this extraordinary resolution.

Dr. Chalmers (alluding to my argument in the Auchterarder Case) said, in last Assembly,—‘The Dean of Faculty has told us of the ‘civil law, that he does not call for the immediate forth-putting of ‘all its powers, in order that the Church may have time to retrace ‘its steps. But I wish *he knew all the difficulty we have had in*

This is the description of the government in the hands of Church officers, distinct from the civil; which the Confession of Faith declares has been appointed by the Lord Jesus, as the Head of the Church.

The next and most important practical chapter (31)—of Synods and Councils,—which sets forth, that ‘for the *better government* and further ‘*edification of the Church*, there ought to be such assemblies as are commonly called synods or councils,’—contains those important definitions and limitations of the objects proper to the same, which connect that chapter (as its first section, indeed, necessarily does) with the 30th chapter, as to the government appointed in the Church already quoted; and the two add greater meaning to the twenty-third chapter, already quoted. The terms of the 31st chapter are indeed quite conclusive against all the present claims of the Church upon these points.

* Robertson’s Report, vol. ii. p. 215.

'prevailing on the best and ablest of our ecclesiastics to refrain from
'the immediate forth-putting of all the powers of the Church, in order
'that the civil courts may have time to retrace their steps. We could
'depose these refractory licentiates, or we could ordain, on the moderation of a call at large, a minister for Auchterarder.'

I do *not* doubt it. I do not doubt the existence and fierce ardour of the intolerant spirit which Dr. Chalmers had such difficulty to restrain. I do not doubt the difficulty Dr. Chalmers has had to restrain those—who seem to have overpowered his original intentions as to the course which the Church should take—from proceeding to deposition or expulsion of all who disputed, in a court of law, the pretensions of the Veto act or the authority claimed by the resolution of 1838. I cannot doubt it:—For to my last hour I shall never forget the scene in the Assembly 1838, a few days after that resolution passed, when they summoned Mr. Young to the bar, though *without notice of any charge whatever having been given to him*, to be proceeded against for contempt, forsooth, of the ecclesiastical courts of the Church,—inasmuch that he intimated the judgment of the Court of Session to the Presbytery of Auchterarder, and called on them, under protest as to all the consequences of refusal, to give effect to the judgment. I went to the bar of the Assembly as his Counsel, knowing that nothing but a resolute *refusal to plead*, when he had not been served with any charge or accusation, and a determination to COMPEL the advisers of these proceedings, if they ventured to go on, *to frame a charge*, could save him from the fierce spirit of intolerance which dictated the proceeding. The disregard of all rules of justice,—the heat with which they were ready to proceed to *any* extremity against Mr. Young, without any charge or notice of a charge against him, makes me but too well persuaded of the spirit 'of the best and ablest of our ecclesiastics,' (!!) to doubt that they have indeed been with difficulty restrained from deposing these refractory licentiates. That they were obliged in *that* case to desist, was owing to the eyes of some being opened, in the course of the proceedings, to the frightful persecution in which they were embarked. As Dr. Cook says,* 'although very much, I believe, from the disgust and indignation which was thus excited, he was discharged without any sentence being pronounced against him, the object of dragging him before the Assembly cannot be doubted.'

The movers in that measure were at length obliged to give it up,—having at last, after several divisions, but a majority of two, upon a vote respecting a question which they proposed to put to Mr. Young, whether he was prepared to state that a protest had been served upon the Presbytery, in order to protect his rights as a litigant. Not knowing the extent to which his rights as a person *at the bar of the Church* might be affected by the question, I refused to let the question be answered, as no charge was served upon him. To another division they could not venture to proceed. I then proposed to bring them out

* Note to published Speech, May 23, 1838.

of the whole scene, if an assurance was given to me, that they wished Mr. Young, *out of respect to the Assembly and not with a view to ulterior measures* against him, to answer the question; but that Mr. Young would not admit that, for a step taken in the course of a litigation, the Church was entitled to hold any one amenable to them. With that proposal they gladly closed; and so, with an *explanation given to the person at the bar*, the matter terminated. The minutes (see Appendix) record a scene well justifying the expressions of Dr. Cook.*

The attempt to proceed against Mr. Young, proved fully and completely the *practical* object of this resolution.

‘Or we could ordain, on the moderation of a call at large, a minister for Auchterarder.’ This is another extremity, to which the ecclesiastics referred to have been anxious to proceed, and which (if I understand the sentence rightly) Dr. Chalmers thinks would have been a *constitutional* course for the Established Church to adopt, when the courts of law have found that the patron had legally exercised his right, and that the rejection of the presentee without any trial or judgment by the Presbytery was illegal, and a violation of the duty which statute had imposed on the Presbyteries.

The patron has forfeited his right or he has not. The courts of law have found that he has not. Is that a civil or spiritual question? Is the Church to decide the other way, so as to give themselves the right of presentation *jure devoluto*? If a Presbytery chooses to give the people a right to elect, it will be in the exercise of their right to present *pro hac vice*.

Dr. Chalmers cannot mean to assert that there exists any other mode of appointing to a benefice or office of the minister of a parish. It will give the matter a more *popular* air and name, it will gratify the opponents of patronage, and it *may* obtain somewhat more support for the measures presently pursued by the Church than they have received, to give the people a choice in Auchterarder, by the Presbytery resolving to ordain the person whom the people may choose. But the procedure by the Church is precisely the same thing, viewed as an assumption of power, as if the Presbytery presented itself—for the act would proceed on the assumption that the patron had forfeited his right for that time, and that it had fallen to the Presbytery. No colour given to the matter for popular effect will alter that point.

Now consider for a moment the nature and results of this pretension.

The Church adopts a measure which the courts of law decide to be against the statutes establishing in these matters the constitution of the Church, and fixing the mode of the appointment of ministers to cures in the Establishment. Well, then, says the Church, we will appoint the ministers ourselves. We will ourselves ordain individuals to the pastoral charge of the people in these parishes, as their permanent ministers. We hold that the judgments are wrong, and cannot interfere

* Appendix.

with us : We hold that the patron has forfeited his right for the particular turn : Between us and the patron the courts of law shall not decide : We therefore appoint or give the people, as from us, the power to elect.

And with what view was this measure urged and pressed forward,—which Dr. Chalmers seems to hold out as constitutional, and of which the Assembly have only postponed the consideration till next year ? Plainly in the hope and expectation, that if the wrong shall be committed, it will ultimately be successful—that if a minister is once ordained, somehow or other he will get the emoluments and temporalia of the benefice—that the sight of the Established minister without the legal provision, especially if this result is hurried on in several parishes, will call for some remedy—that such a proceeding will extort concessions from the Legislature—that the apprehension of what is thus held out by Dr. Chalmers will influence public men to give way to the pretensions of the Church, or will induce patrons (whose disposition not to look to the exercise of their rights of patronage as merely a matter of private right, the Church of Scotland has such good reasons to know, and has of late so ill requited) not to claim the vacant stipends, but to yield them to the persons whom the Church may thus unconstitutionally introduce.

I need not comment, I am sure, on the spirit, manifested in the above resolution, and in the procedure by which it was attempted to follow it up. If the Church is to be the sole judge of the measures which it may adopt, and of the extent of its jurisdiction,—if it is to claim independent jurisdiction, and refuse to acknowledge the decisions of courts of law, whenever it chooses to appeal to its spiritual authority—and if, moreover, it is to enforce submission by *all office-bearers and members of the Church* to its decisions respecting important constitutional questions, on which the courts of law have decided that the Church has no authority, and compel obedience to the orders or doctrines it may choose to promulgate on such matters,—what a tyranny over the actions and minds and consciences of men ! That these ‘ able ecclesiastics ’ are ready to *proceed against members* of the Church cannot be doubted,—the Resolution is pointed against *all*. I do not doubt that, if the Church proceeds in the spirit which now dictates its proceedings, it will require the acknowledgment of this Veto act from all communicants, by making the enrolment of their names on the list which is to be used on vacancies, a requisite to communion, and will exact from all whom they can encounter, in regard to any Church privilege, the acknowledgment of their powers and jurisdiction.

To me the notion of connecting the Sacrament of the Communion with the enrolment of one’s name on a list of voters who are to be counted, whether they choose or not, on a vacancy, under this Veto act, in a manner which they deem illegal, and most injurious to the interests of the Church and to the peace and quiet of parishes, is most revolting. To others it may not be so ; to my feelings it is most repugnant. I make not a doubt that it is intended to require in some

form or other this 'submission,' as the requisite to going forward to communion.

The resolution includes patrons as well as licentiates; and when the former happen to be members of the Church,—then (in consistency, and if the authority is not to be exercised *only against the weak and those more dependent on the Church*), the vindication of their statutory rights will be regarded as disobedience to the Church, and submission enforced under the penalty of expulsion from the Church, or deprivation of Church ordinances. The words, '*members of this Church*,' in addition to and distinct from office-bearers, cannot have been used without some signification. And Dr. Chalmers's acknowledgment of the impatience which wished to crush those, who presumed to try in a court of law the question as to the competency of the acts of the Church, denotes an intolerance on the part of those whom he had such difficulty in restraining from 'putting forth *all the powers* of the Church,' (ominous expression), which is not likely to view with much tenderness the more odious patron.

Now, I request your Lordship calmly to consider what a view is exhibited of the danger to the liberty of conscience—to the freedom of conduct,—and to the peace of the community of the Church, which may arise from the spirit manifested in the proceedings I have last adverted to.

Not attending to the sense in which the proposition has been used, great offence, I see, has been taken at the proposition—'that every man in 'the country who adheres to its doctrines, is entitled to be a member 'of the Established Church.' This proposition,—which was *not* stated, *irrespective of moral conduct*,—is an important constitutional principle, of which the Church is fast losing sight. A dissenting religious body may establish any set of opinions or notions upon any points which it chooses to adopt—belief in and submission to which shall be required of its members.

An established church is in a different position.* It is recognised and

* Since the text was written and in the press, the concluding Tract of the Weekly Series from which I have quoted, has been published, with the names of the authors of the whole series, viz. Mr. Dunlop, Mr. Candlish, Mr. Cunningham, two other clergymen, (Mr. Brown, and Mr. Guthrie,) and the last by Dr. Chalmers.

The object of the Tract by Dr. Chalmers seems to be twofold, first, to make out that there really is no resistance to the law,—and, secondly, to represent the Church of Scotland as *already a persecuted Church*—to claim sympathy for the ministers and for the Church on that ground—to represent her spiritual authority and discipline as endangered, disputed, and invaded—to shew that these ecclesiastical questions are really connected with the spiritual government of the Church—that the Church has been acting wholly on the defensive, and only 'resisting the beginnings of a system absolutely ruinous to the Christian character and

adopted for the good of the subjects of the country—and *all*, (whose *conduct* does not justly forfeit the right, and entitle the Church to debar them from

‘usefulness of the Establishment;’ and as the full illustration of all that the Church is thus threatened with, he refers to an Opinion of mine which was read to the Presbytery of Dunkeld, to shew them that the induction of Mr. Kessen would be treated to be a contempt of Court, and violation of the interdict, and so had been published: and accordingly thus winds up and closes his appeal to the people of Scotland, by the allusion to the fearful invasion of the independence of the Church, of which this opinion is *the* proof and illustration—

‘We must not take our order from the Civil Court in things ecclesiastical, else where will it end? An eminent lawyer has recently given forth, that every man who subscribes our articles, *and has a fair moral character*, has a *right of admission to the communion-table*. Let the Civil Court *act upon this*, (and where lies the difference between an order from that quarter to admit a man to be a *partaker* of ordinances, and the order to admit a man to be a *dispenser* of these ordinances)—and every spiritual qualification on which we now insist, is utterly put to scorn. Christianity sinks down to a civil and an earthly standard. The whole institute is vitiated and secularized. Not the patrimonial interest of the Church alone, but its very theology will be at the beck of legal functionaries. And what in the hands of our venerated forefathers was a pure Church of Christ, one of the most illustrious daughters of the Reformation, will, trodden under foot of the Gentiles, become part and parcel of the kingdoms of this world.’

I regret that my friend Dr. Chalmers should entertain apparently this estimate of the notions and views on such points of one who is a fellow communicant in the same congregation, and who has received the communion under his benediction and address, in assisting on these occasions. But the reference to the opinion proves that he has never seen it, but has taken on trust some of the numerous allusions to it made by others. The opinion quotes that part of the deliverance of the Commission of Assembly in August 1833, by which they declared the Presbytery of Dunkeld to serve Mr. Clark with a libel or accusation, for inclining to try the legality of the Veto, and to interdict any interference with his rights during the dependence of his action, in order to deprive him of his licence or expel him from the Church, if he did not shew penitence and abandon his legal proceedings: I then pointed out in the opinion that ‘To construe any civil proceedings at the instance of a member of the Church (whether minister, probationer, or layman), intended to secure rights which he believes to belong to himself, and to give effect to a judgment which he hopes to obtain against the legality of acts of the Church, into a contempt, would be sufficiently intolerable and oppressive. The legal proceedings will either be found by the Courts of Law to be without ground, or will be decided to be well founded. In the latter case the party is right and the Church

its privileges)—all the subjects of the country adhering to its doctrines, are entitled to be members of the Established Church, *according to the*

‘wrong, except in their own opinion; and the declaration by the Church that the trial of any question against them on which they choose to promulgate an enactment, is a contempt punishable by the Courts of an Established Church; and since that no one can be sure of being a member of the Established Church without abandoning his right to try points with the Church in a Court of Law, goes the full length of any pretension, however extravagant, of the Church of Rome.’

I further said,—‘What act of the Legislature,—what law of the Established Church, adopted by the State, has said that the trial of points in a court of law, by a subject of this country, (a member of the Established Church,) even against the Church itself, is an offence inferring loss of his rights as a member of that Church, whatever is the relation in which he stands to it? If the acts of the Church shall be found to be legal, the law then will effectually protect the Church in their enforcement. But the trial of questions with the Church has not been declared (during the dependence of such questions,) to be inconsistent with the right of the subject, to be, and to remain a member of the Established Church, and to continue in the relation in that Church which he has legally acquired. The deliverance of the Assembly attempts, illegally, to trample on Mr. Clark’s rights as a British subject; for *every man in this country who adheres to its doctrines is entitled to be a member of the Established Church.*’ (This is the obnoxious passage.) ‘The rights of Mr. Clark, as a probationer, in this respect, are as sacred as those of a layman. He was legally entitled to his licence, and he holds it as a British subject. The institution of the legal proceedings to which he has had recourse is one of the highest rights and privileges of a subject. The exercise of such rights, which belong to the character of a British subject, cannot be inconsistent with *his* right and *his* status as a member of the Church, any more than it would be with the rights and status of the patron, or any other member of the Church who chose to try points of law with them. It has been thought that probationers were a body whom it might be proper and safe to concuss and oppress. But the illegality of the proceeding is the same as against an elder or any other member of the Church.’

When this opinion has actually been used by Dr. Chalmers to bring out and set before the people of Scotland, with the sanction of his great name, the extent of the threatened invasion of the spiritual character and usefulness of the Church of Scotland, which he so pathetically depicts, in order to awaken their sympathy, I may be excused from noticing the misapprehension as to this opinion which has given him such alarm. I am sure he will be glad to see the opinion of which he has received such an account. He will see that there is not the slightest re-

polity, doctrines, and discipline, which the *State* has *adopted and ratified*. Licentiates, ministers, elders, members of congregations, are

ference to any question of discipline, or to the notion of civil courts enforcing the right to go to the communion table, when withheld by Church Courts in the exercise of their spiritual authority; nay, that the account which has misled him had not the slightest countenance, even from any ambiguous phrase or expression in that opinion. And however much we may differ on the whole subject of the controversy, —and he is the last person to suppose that the utmost freedom in stating the grounds of that difference implies any diminution in the sincere admiration, and respect which, in common with all, he knows that I have uniformly felt in regard to him,—he will, I know, regret that inaccurate quotations or statements of this opinion, in other pamphlets, should have so misled him. No doubt the correction of the error destroys the appeal which is built *wholly upon it*. But this is an illustration of the way in which matters, most essentially different, are mixed up and confounded together. What connection has any one of the points discussed in the foregoing pages, or in the remainder of this publication, with the discipline and spiritual government of the Church, as explained in the Confession of Faith, and enforced and observed in our Presbyterian Church? How can the decisions of which Dr. Chalmers complains, or the ultimate acquiescence of the Church, as an Establishment, in the authority of the law, interfere with the discipline of the Church in any one particular?

In so far as Dr. Chalmers says that if the Church is called by the Civil Courts to admit a presentee, *after being tried by the Church*, and *PROVIDED he is in their judgment perfectly qualified*, it is the *same thing* as being directed to admit to the communion table a person *whom they have found to be unqualified*; he must adopt (so far as one can understand the grounds of an opinion which it is not very easy to follow,) the doctrine that the civil power has no right to prescribe any mode of providing the appointment of ministers when an establishment is formed. Whatever the mode is which the State fixes, it is either to be enforced or not. If it is to be enforced, can the Church complain that Courts of Law do enforce it? If members of the Establishment think that the enforcement of such a matter is inconsistent with the rights of the Church, there is no alternative but adherence to a private religious body, in which the State protects from all interference the authority of the Church Courts or superiors whom the body choose to recognize as supreme, to the extent of entire and exclusive regulation of all matters so committed to them.

Really to say that there is no difference between the civil court directing '*the Church*' to admit a person *rejected by them as unworthy* of the communion table, and directing Church Courts to take on trials and admit and induct, *provided in their opinion he is qualified*, a minister presented in the way settled by the State at the establishment of

not the less subjects of the country—possessing rights in regard to the Church itself, and the constitution and limits thereof, as established by the State—which rights the *Church cannot affect*. The Confession of Faith affords a most perfect example of the character of these rights and of the position of the Church. The Church cannot withdraw one article of that Confession which Parliament adopted as the Confession of the national Church, or add anything inconsistent and incongruous therewith. It cannot, indeed, add to it at all. It cannot add a word or a doctrine to the statutory and national Confession of Faith. No member of the Church could be called upon to submit to any such act on the part of the Church.

And yet members of the Established Church are told, that if they presume to maintain by legal proceedings the constitutional law of the Church, which acts of Parliament have established—if they venture to maintain the incompetency of any acts on the part of the Church, which exceed the limits of the authority committed to it by the State, and are injurious to their own rights;—if, in short, they dispute the legality of any exercise of power by the Church—and that too, after the power claimed has been found by the House of Lords to be usurpation—they will be exposed to and visited with the censures of the Church, and cut

the national Church is very surprising. Yet such is the line adopted in endeavouring to agitate in Scotland for support and sympathy in the maintenance of the position the Church has so unfortunately taken.

That Dr. Chalmers and the leading members of the Committee have thus published and circulated this Series of Tracts, sufficiently identifies the opinions on which I have commented with the whole course of proceedings in the Church, the practical effects of which are so alarming. I am somewhat surprised, after disclaiming all fellowship with those whose 'WATCHWORD was the *right* of the Christian people,' that Dr. Chalmers should have given his name and sanction, and of course tenfold authority and weight, to this series of pamphlets, which advocate that very doctrine in the most earnest terms, and are written by gentlemen who have taken the lead in denouncing patronage as unscriptural, and whose opinions were made so conspicuous at the meeting at Edinburgh in November 1838, to which I have adverted.

It will be admitted that this series of tracts, coming from the leading members of the Committee of the General Assembly, aided by three other gentlemen, who are the most active supporters of the measures in question, and declared opponents of patronage, or of any nomination without at least a veto, as *wholly unscriptural*, is of the utmost importance in understanding the questions which are now in agitation.

Lord Moncreiff said emphatically in his evidence before the Committee of the House of Commons in March 1834, that he knew of none of the *learned* clergy of the Church who objected to patronage on any *scriptural* grounds. I am afraid He must now be shaken in that persuasion.

off, if necessary, from communion with the Church, of which, as subjects of the kingdom, they are entitled to be members.

To the Licentiates, the cruelty and oppression of such a course is manifest.

But to all, the threat of such proceedings is deeply important. The use of Church censures—the effect on the minds of men of being branded and marked out by the condemnation, whether direct or general of the Established Church,—and the moral intimidation, and actual influence in gaining ascendancy, produced by the declaration, that to dispute the power of the Church in any given case, is to deny its legitimate authority as a branch of the Church universal—have been, in other times, the favourite and the successful weapons, by which ecclesiastical usurpation has been prosecuted, and have proved most dangerous means of overcoming the liberties of mankind, and the rights both of states and individuals.

Has there been any case yet in which the threat has been made in circumstances more unjustifiable, or betraying a more intolerant and usurping spirit than by this resolution of the Assembly? The constitution of the Reformed Church of Scotland was regulated and settled by a series of statutes—confirmed in most particulars at the Revolution,—and re-enacted and defined, as to the particular points out of which this discussion has originated, by the Act of Queen Anne. That constitution has subsisted without change ever since. Irregular and most anomalous attempts, in the early part of the last century, indirectly to defeat the law, were gradually abandoned, by the good sense, by the enlightened wisdom, and by the Christian discernment and temper of the Church itself. Suddenly, and without call, a mighty and revolutionary change in this regulated and adjusted system is at once made by the act of the Church itself. Still it was in the form of a regular act of the Church, in the exercise of authority supposed to be given to it by the State, and in the belief, on the part of many who concurred in it, that this exercise of authority was constitutional and competent.

Its competency was regularly tried, and the measure solemnly adjudged to be an excess of power, and a violation of statutory duty expressly imposed on Presbyteries. Then it was that this resolution was come to by the Church.

It was not introduced in a season of general disturbance in the social system, resulting from great constitutional struggles, when the limits of different jurisdictions are not settled, and when the general dislocation of the different authorities of the State admits of, and sometimes justifies anomalous and extreme proceedings. In the present day surely, if such a result is ever to be attained, the authority of law is established, and the means of preventing disturbance in society, by the incompetent acts of any Body in the State, recognized and appreciated. And yet, because members of the Established Church resort to a constitutional and legal remedy against an act on the part of the Church, as contrary to law,

and injurious to private rights, the Church declares that the appeal to the tribunals of the country is *inconsistent with duty to the Church*—that to question the competency of the acts which these tribunals have found to be illegal, is *Contumacy*, and that by Church censures, deprivation of ordinances, excommunication, &c., they will enforce submission to measures thus declared to be illegal.

Thus, in the present day, the great safeguard and security for the peace of the social system, and for the preservation of order, viz. the efficacy of law to redress wrong, to repress usurpation, and to maintain the due restraints on all bodies in the State, without which disorder must ensue—this, the greatest and most beneficial characteristic of the social system of Britain, is declared at once to be inconsistent with the power of the Church, and the members presuming to resort to this source of protection, and to this mode of maintaining the limits of Ecclesiastical Authority, are to be denounced as worthy of Church censures, leading, it may be, to public personal condemnation of the individual by his spiritual authorities—a result which many minds cannot contemplate without the liveliest alarm and terror.

Your Lordship may have been informed of this resolution of the Assembly at the time. But great as was the surprise which it occasioned in England, I have sometimes found that the real character of the proceeding was misunderstood, and the dangers to be apprehended from it consequently underrated. For many looked merely to the *assertion* of independent jurisdiction which it contained, and however extravagant such a sally in the present day, the *practical* character of the proceeding, and its immediate effect on the rights and liberties of the people of Scotland, if followed out as its authors intend, and *indeed immediately attempted*, were not so generally perceived. The real danger lies in the declaration, that the Church is to enforce submission to its acts, when found by the regular tribunals of the country to be incompetent and unconstitutional, by the penalties of Church censures and by exclusion from Church privileges—that the *authority and influence* of the Established Church *are to be exercised against the subjects* of the country for *venturing to appeal to these tribunals*—and the power of discipline and spiritual superintendence to be used against individuals, in order to enforce the unconstitutional acts and usurpation of the Church.

The resolution is not to be regarded merely as a vague ill-timed declaration of independence, intended to mark the sullen discontent of the Church with the decisions of the courts of law, but neither calculated nor designed to lead to practical results. It was not the mere ebullition of temper and disappointment. It was adopted with the steady purpose of enforcing submission to the Church. Ministers, elders, —all, whether judges or private parties, were informed that, as members of the Church, submit they must to the acts of the Church, which the law had found to be incompetent. The framers of this resolution knew well the influence which the menace of Church censure and of exclusion from Church privileges will ever exercise on the minds of thousands,

probably of most men who are attached to any particular Church, and were aware of the repugnance with which most will contemplate being among the first to encounter this odious brand. They *speculated* on the probability that concessions would be made to them by the State, in order to avoid the lamentable results which the excesses of the Church would occasion. They believed that indifference to all such subjects might induce many, even in Scotland, to think—‘it is surely better to yield to the Church, than to let them run on into excommunication and similar scenes;’—while they calculated on the neutrality of England, from the disposition which generally exists there, to regard most matters connected with the Scotch Church as mere provincial questions, which have no real bearing on the general interests of the country or of the Church of England, and as to which the best policy is rather to give way at the time than to encounter any new points of discussion. Accordingly founding their expectations of success and triumph on all these grounds—looking steadily to the means by which ecclesiastical usurpation in other times has been successful—the framers of the resolution pointed to immediate and practical results, the more formidable that they were directed against individuals personally, and not intended directly to produce any public conflict of jurisdiction, which might have retarded rather than aided the objects in view.

It is in vain to disguise the character, or to disclaim the objects, of this resolution. That it is the resolution of a Reformed Church, does not alter the fact, viz. that it is intended to secure and effect the extension of ecclesiastical power. That the Church adopting such a resolution is the best of Protestant institutions, is no infallible security against the consequences of error, excess, and extravagance on the part of its members in peculiar states of the minds and humours of men. That the ministers of the Church are zealous, pious, and useful, does not ensure that at times they shall not be carried away by the predominating spirit of churchmen, and ready to break through all constitutional bounds, in order to exalt the power of their Church. The resolution itself admits of no mistake as to the spirit in which the general pretensions of the Church are asserted. But the determination to exercise the power of the Church over the minds and opinions of men, in order to enforce submission to its pretensions, by visiting with the odious and fearful stigma of exclusion and censure those who dispute their legality, is a part of it which bespeaks irresistibly the intolerant and relentless spirit of ecclesiastical usurpation and tyranny.

To be sure we are told, that ecclesiastical power cannot be the object of a Church which has a popular constitution, and which is contending, it is said, only for the rights of the people, and for popular privileges. I shall advert presently to the effect which the measures for which they are contending will have on the influence and power of the clergy as a body. But when, I should wish to ask, has a church been unable to defend its usurpations by specious pretexts, and by an imposing appeal to objects of the highest and most sacred character?

The fact is the same, be the Church of popular constitution, or Episcopal. The usurpation and exercise of illegal power, which the tribu-

nals of the country have decided to be incompetent, is to be enforced by the Church, by its spiritual authority, and the submission of the minds of men to its power is to be effected by the resort to Church censures, exclusion from Church privileges, and expulsion from the Church.

This is the subjugation which the spirit of ecclesiastical usurpation has always attempted to effect; and while it lasts, the effect on the minds of men—on the civil and religious liberty of the country, will not be less burdensome and disastrous; not less injurious to the interests of true religion, and to the national character, because it may be exercised by the Church Courts of Presbytery, and not by the prelates of a proud hierarchy. Perhaps in its ultimate consequences it may have evils as widely spread, and as difficult of correction.

The ‘best and ablest’ of those ecclesiastics, whom Dr. Chalmers has found it so difficult to moderate down even to the tone of his motion, appeal continually, in all their speeches and resolutions, with fond regret, and with enthusiastic anticipations of swaying again the same power, to the ascendancy of the Scottish Church from 1638 down to the discomfiture it experienced from Cromwell, as the triumph of all their principles, and the practical consummation of all their views and hopes.

The leading supporters of these opinions among the clergy of Edinburgh, all took part in the meeting for Commemoration of the Assembly 1638, to which I have already alluded,—and the authority, power, and measures of that Assembly, were constantly and most earnestly referred to, as realizing the views of the state of the Presbyterian Church, in the perfection and purity to which the speakers wished to restore it. And where such are the avowed views of the clergy in the metropolis, who advocate the present measures of the Church, one may easily understand the opinions of the active directors of all these late measures. I shall quote a passage, already adverted to, from the revised speech of Mr. Candlish, one of the Committee of Assembly to carry on the present negotiation with the government respecting the Veto, and one of the deputation sent to London for that purpose.

Mr. Candlish, as he is one of the ablest, is also one of the most candid and plain spoken advocates of the changes which are now pressed upon the consideration of government. His statements, therefore, deserve great attention, as exhibiting more fully and plainly perhaps than the speeches of others, the real and ultimate objects to which the present measures of the Assembly point. There may be less of the practised debater in his speeches on these subjects than in the speeches of others: But there is no attempt to conceal the object which he believes and understands to be *common to them all*. His recorded opinions, therefore, are of the utmost importance, as proving beyond a doubt, what it is that the leading and most active of the clergy have in view in their present agitation.

The passage I allude to is as follows:—‘And we have reason to be thankful that, since 1638, that constitution has been preserved. It is true that never, since the period of 1638—never, I may say, has that constitution had altogether fair play. For a brief

‘period after the rising of that Assembly the Church enjoyed prosperity, and, it may be, in part abused it. It is possible that success, sudden success, after long trial, may have led to some excesses; which men, with no soul for entering into the noble spirit breathing through these times and transactions, may point out in their petty cavils, and try to hold up to scorn, while they might rather cast a veil over such minor blemishes, and thank God for the great work done. After this period of prosperity came a period of persecution—godliness was well nigh suppressed in the Church by the arm of arbitrary power, and corruption in manners spread and increased by the example of royal and noble profligacy—the Sabbath was desecrated, and the inferior orders of the clergy had, in a great degree, lapsed into latitudinarian sentiments and immoral conduct. At the period of the Revolution, it will *hardly be maintained now by any* that the *system of our Church*, as our *wise and pious forefathers framed it*, was *fully realized*. The settlement of that era by *no means perfectly embodied the fair image which they had conceived*. A leaven of Episcopalian corruption, as affecting both the manners of the people, and the doctrine and conduct of the ministers, still remained, and the *state undoubtedly stretched forth its hand*, in the management of spiritual affairs, *beyond its legitimate province*. Then came the union of the crowns, the influence naturally exerted by intercourse with our richer and more powerful neighbour, and the gradual alienation of many of the upper classes, by their southern education, and transference of the parliament, as well as the court, to London. I need not remind this meeting of the circumstances which have since hindered the full and fair play of the constitution of the Church—the obstacles interposed by the arbitrary enactment of patronage, in the reign of Queen Anne; and, worst of all, by the secession of those men of old, who had too good cause indeed for leaving a *tyrannical Church*, but who, had they foreseen these two things—on the one hand, the extent to which their descendants would go, in disowning this Church altogether; and, on the other hand, the revival with which it has pleased God to bless our Church in these latter days,—would, I earnestly believe, have borne more patiently their tribulations, and continued to witness within our Church, rather than to witness against it. However that may be, I mention this thing merely, as shewing *that the constitution of 1638 never had full and fair play*.’

Mr. Candlish must, of course, have well considered those portions of the ecclesiastical constitution and powers claimed by the Church in 1638, and in her period of prosperity thereafter, which he regrets were not re-incorporated with the constitution of Presbytery, when finally settled in 1688, after the model and in terms of the act 1592,—and which distinguish Presbytery, as then settled, from the more exalted views of the Covenanters in 1638. I am glad, at least, that he admits that Presbytery, as settled at the Revolution in 1690, (even with the change made *then* as to patronage), *does not warrant the views and claims* which he now puts forth. This is an important practical admission to those who understand and hold Presbytery, as *then settled*, to be ‘the Church

‘ of Scotland,’ and know no other form of it ;—though Mr. Candlish, as a minister of that Church, is not satisfied with the settlement of 1688. And I think it is also extremely important to notice the declaration, that, in attempting to fix or regulate that constitution, the State stretched forth its hand, in the management of spiritual matters, *beyond its legitimate province* :—For such a declaration admits, that the State *did* fix and regulate the constitution of the Church, even in spiritual matters, and *did interpose* in a way which excludes much of what is now claimed.

The above passage, like every such straightforward exposition of principles, made without regard to the light in which others may view the expediency of such avowals of the speaker’s opinions, is most valuable for the admissions it contains, of what is now the *established constitution* of the Church of Scotland, *as settled by law*. But this and similar expressions of opinions, acquire additional importance when taken in connection with a declaration by last Assembly, to which I must in the sequel advert, adopted as the ground upon which a certain body of Seceders were ready to join the Church, provided such a concession were made to them.

The Assembly of 1638,—justified, no doubt, as every great movement against oppression and practical despotism always is, by the exigency of the period, and by the necessity of breaking through the persecution and tyranny of which the nation complained in regard to religion, no matter by what means—claimed however and exercised (be it remembered) the power of setting aside acts of Parliament, and of overturning institutions established by statute. Is that power—used at a period of a great national struggle for religious freedom, against the encroachments of Popery and against a most galling persecution—a part of the ecclesiastical constitution of which we received so faint and imperfect an image at the Revolution in 1688? The Assembly of 1638 assumed at once the complete controul and dominion over the press,—‘ and by virtue of their *ecclesiastical* authority,’ (so plastic is the term for the purposes of encroachment), prohibited all printers within the kingdom, to print anything which might call in question their proceedings or opinions.* No doubt some of the leaders knew well that such power could neither be justified on any sound principle of ecclesiastical authority, or of toleration and liberty. But

* ‘ The Assembly considering the great prejudice which God’s Church ‘ in this land hath sustained these years bypast, by the unwarranted ‘ printing of libels, pamphlets, and polemicks, to the disgrace of religion, ‘ slander of the gospel, infecting and disquieting the minds of God’s ‘ people, and disturbance of the peace of the Church, *by virtue of their* ‘ *ecclesiastical authority*, dischargeth and inhibiteth all printers within ‘ this kingdom to print any act of the former Assemblies ; any of the ‘ acts or proceedings of this Assembly ; any Confession of Faith ; any ‘ protestation, any reasons *pro* or *contra*, anent the present divisions and ‘ controversies of this time, or any other treatise whatsoever, which may ‘ concern the Church of Scotland, or God’s cause in hand.’

notwithstanding the protestation of Baillie, that it was not meant to fetter conscience, yet the Church did not rest satisfied with their own act, but resolutely pressed on this intolerant enactment, until they obtained from Parliament at last, in 1646, a statute,* which carried into full effect one great object, which, in the intervening years from 1638, they had anxiously laboured to secure.

It is needless to pursue further this notice of the proceedings from 1638 to 1652. The Covenant for the defence of Presbytery in Scotland was soon converted into a new covenant for the extirpation of Episcopacy in England. All persons, *not in the ministry of the Church*, were prohibited from publicly explaining the Scriptures—a prohibition levelled against any dissent and all dissenters of every kind, whether Independents or not; and while it was admitted that, in a season of persecution, (when the Presbyterian clergy had themselves propagated their own views by private meetings), such things might be allowed, yet after a Church was regularly constituted, it was declared that the practice should be discontinued, as *prejudising the Established ministry*, and *destroying the unity of Christian congregations*:—And in order that family worship might not be the pretext for such, it was declared,

* ‘ The estates of Parliament, presently convened in the fifth session of this first triennial Parliament, *understanding from the General Assembly*, the great abuse of printing and publishing books, letters, and others concerning religion and the kirk without license: Therefore, for remedy thereof, inhibits and discharges all and every one to presume hereafter to print or reprint any declarations, protestations, covenants, confessions, letters, acts, or any thing issuing from kirk judicatories, or any books, treatises, histories, sermons, commentaries, disputes, or other papers whatsoever *treating of religion, or any point of religion, in doctrine, worship, or discipline*, or concerning the kirk, the officers, government, or conditions or affairs thereof, *without special license and privilege of the General Assembly*, or their Commissioners, or such as shall have power from them; and that under the pain of confiscation of the said books and other papers printed without license aforesaid, and of the presses, types, and other moveable goods whatsoever belonging to the printers thereof; the one-half thereof shall belong to the kirk, to be made use of and employed upon pious uses, beside any further personal punishment of the said printers that the Lords of secret Council, or the Committees of Parliament or Convention, shall think fit to inflict: and the saids Estates ordains magistrates of burghs where printers dwell, upon information from the General Assembly, their Commissioners, or others having power from them, to arrest, take, and apprehend the said printers, contraveners of this act, with the books and other papers aforesaid, to be presented to the Lords of Council, or Committees of Parliament or Convention, to underly the law for the said offence; that after trials thereof, the said books and papers, and all other goods aforementioned, may be confiscate in manner aforesaid, and the offenders further punished at the discretion of the said judges.’

that family worship should be limited to members of the same family. Many other illustrations might be given of the views and objects of the Church at this period, and of the nature of that system or scheme of a church, which, it was admitted by Mr. Candlish, was *not* realized in many particulars at the Revolution 1688, and of those matters, the regulation of which the State at that period, by the interference complained of, did not allow to belong to the 'legitimate province' of the Church.

That the Presbyterian Church, as settled at the Revolution, was materially different from the scheme of the Presbyterian Church as *practically administered* by the Assemblies from 1638 downwards, to the time of Cromwell, is most true. As an historical fact, the matter is beyond dispute. But few of the advocates of the present measures admit the fact with the frankness of Mr. Candlish; and while aiming at common objects, they wish to represent the declarations of 1638 as an adopted and recognised part of the constitution of the Church.

We have been accustomed to consider, and justly, the excesses, into which the Presbyterian Church then rushed, as the natural effects of the long-continued and oppressive attempts to compel the clergy and the people of Scotland to submit not only to Episcopacy, but to the gradual introduction of Popery under that disguise—of the injuries of which they had so much cause to complain, and of the conduct of the prelates themselves, and their partizans, which as usual were regarded by the oppressed party as the *necessary* effects of the system, and not of the character of the men themselves, and of the circumstances in which they had acquired and were defending power, contrary to the feelings of the great bulk of the people:—Such is the light in which all true Scotchmen view the excesses which followed the overthrow of prelacy.

But there are other lessons which we must not altogether lose sight of, in studying that portion of history. While we regard with veneration the learning, talents, and piety of the great Presbyters at that period, to whom Scotland owes her Confession of Faith, her Catechisms, and the origin of her parochial schools, and acknowledge their most enlightened zeal for the advancement of learning; and while we find in the excesses into which even *they* were hurried, additional reasons for abhorring the persecution which produced such effects on their minds, let us also see in their ultimate errors, greater reason for maintaining, as paramount rules of public policy, the principles of toleration, when it is found that even those who had suffered from persecution were hurried into the fiercest intolerance. It is startling to find the leading advocates for the measures which the Assembly are now pursuing, avowing the desire to reclaim the authority which the Church began to exercise in 1638, and to bring, by their present measures, the Church back to the system and the power which they were maintaining when interrupted by the usurpation of Cromwell. And it is an instructive picture of the turns, which the minds of men take in periods of excitement and of love of change, and of the strength with which the desire for power and influence returns on 'ecclesiastics,' to find some of the Presbyterian clergy in the present day, proclaiming their anxiety to

regain, in such altered times, the supremacy which the Church wielded to its own destruction two centuries ago:—While the enemies of the Church are gladly seizing on these ill-timed displays of their encroaching spirit, as additional means of attacking the *principle of an Establishment*.

Let us not underrate the necessity of opposing these schemes, because the risk of their success may appear slight. Triumph they may not. But the effect on the national mind, and on the interests of religion and of the Church may be most prejudicial, even from partial success or from temporary encouragement; and he is a bold man who ventures in the present day to foretell the exact extent to which any extreme opinions may for the time carry men, or the exact crisis and turn at which the counterbalancing causes will prevail and prevent further evils. Of this we may be sure, that in precise proportion to the extent to which the ‘ecclesiastics’ of the Church obtain influence and power, will be increased the hostility of another portion of the community either to religion itself or to an Establishment. Neither is it an immaterial consideration to one zealously attached to Presbytery, that such excesses on the part of the Presbyterian Church, will increase the strength and numbers of Episcopalians in Scotland, to whom the errors of Presbytery will for the time always give an advantage.

If I mistake not, there are no insignificant symptoms in most of the recent speeches of Dr. Chalmers, that he views with some alarm many of the manifestations of extreme principles which have lately broken out among the bulk of those who are at present prosecuting the Veto system. I do not allude merely to the concern with which, along with so many others, he may justly regret that the great and most important object of Church Extension has suffered from the distraction, to say the least, occasioned by these anomalous discussions. His speeches contain evidence of the distrust and alarm with which he views many of the opinions and doctrines of those with whom in this measure he is, most unexpectedly, for the present co-operating. There is in his published speech, in introducing his motion in the last Assembly, an obvious struggle in his mind, to find some grounds peculiar to himself, and opposed to the opinions of those with whom he is acting, in order to explain and account for the result to which he had at last arrived, contrary, as he admits, to repeated declarations of his views, well known to many taking a deep interest in these questions.

He disclaims, in the outset of his speech, any identity of views with any party in the Church. He announces that he thought that the Veto Act had been incompetently passed, and had wished application to be made to Parliament for authority to pass it, so far as regarded the rights of patrons, (an admission I must presently advert to), and expresses his regret that his opinion had been overborne. The resolution of the previous year as to the Independent Jurisdiction of the Church, and the language and views with which it was supported, appear to have little favour in his eyes. ‘We therefore have no sympathy with those whose deference for an Establishment rests on merely civil or political considerations.

‘But we have just as little sympathy with those who, in the spirit of defiance, or of coarse and blustering independence, tell us of the prerogatives of the Church; and rather than not be constantly parading these, whether in or out of season, say they would give the State endowments to the wind—one of the greatest moral calamities which could befall the myriads of a then churchless, and, in the most emphatic sense of the term, deeply suffering population.’ Yet, curiously enough, by a process of reasoning which he thinks rests on other grounds than those adopted by his supporters, he arrives at pretty nearly the same results, and has gone as far as any of them:—In explaining his notions of the relative position of a national Church to the laws made by the State in reference to it, and at the period of its establishment, he maintains—that ‘even the law of patronage, right or wrong, is in force, *not by the power of the State*, but by the *permission of the Church*, and with all its fancied omnipotence, has no other basis than that of our majorities to rest upon.’ He seems desirous to think that the dread of the assertion of independent jurisdiction had created alarm in England and among the friends of the Church in Parliament, *only* from the misapprehension that there was some affinity between it and ‘that fearful spirit of insubordination and anarchy which now threatens, all over Europe, the demolition of every ancient structure, whether political or ecclesiastical.’

After insisting that the views of your Lordship and Lord Brougham are wrong, Dr. Chalmers thinks the object of his motion is correctly described by the declaration which follows: ‘The more of *ignorance*, the more of *rashness*, the more of *reckless disregard to the dearest principles of our Church*, to the dearest and most cherished feelings of our people, *can be pointed out in these speeches*, the greater is our urgent demand for a Committee; and, what is more, the brighter is our hope of a prosperous issue to its negotiations. *If we succeed in demonstrating of this sentence, that altogether it is grounded upon error*, is it too much to hope of an enlightened legislature, that it will grant a new law which might correct the interpretation, or rather *misinterpretation*, that has been made of their old ones?’

If the main object of his motion, and of the Committee he moved for, had been merely to satisfy the colleagues of your Lordship, that your opinion was altogether founded in error, the proceeding would have been comparatively harmless.

In all such controversies, it generally happens that much of popular delusion and misapprehension arises from the vague and undefined use of general terms. We have now got the ‘WATCHWORD’ of ‘*non-intrusion*,’—as if that term were applicable only to, or necessarily implied, the *power of peremptory rejection* bestowed by the Veto act. This is a gross abuse of the term, in the only sense in which it was ever used or employed by the Church when they came to act upon it.

If the phrase, ‘the principle of *non-intrusion*,’ means that a patron has no *right* to insist upon his presentee being settled in a parish, whe-

ther there is a valid objection to him or not, the principle is indeed a *fundamental* one. No one *can* be intruded. The Church hears, receives, judges of, and sustains all objections, if these are, in its opinion, well founded. The protection is complete. The Church, with whom the term originated, exercises the protection, and its practice shews its meaning. But the term is now employed without any disguise, to denote and to require a *right of rejection* on the part of the people, which they are to exercise according to *their* pleasure.

Let us not then be misled by the constant use of this general phrase—the principle of non-intrusion. It is only in reference to the actual measure which the Church has proposed, that it is necessary to consider the authority for the proposition included in this phrase.

The term may include the most inconsistent and contradictory opinions. Most of its leading advocates really mean by that phrase the abolition of patronage—or the principle of the necessity of a Call by the people in order to constitute the pastoral relation. Such are the avowed and recorded opinions of most of the supporters of Dr. Chalmers's motion—of many of the members of the Committee, and of those who have been preparing the way for that motion, and for the movement which prompted or dictated it.

But the real and practical question for consideration is, the merits and competence of that particular plan which the Veto act embraces—to which the Church has declared its resolution to adhere—which it does at present enforce—for which it asks sanction from Government, and from Parliament the power *legally* to introduce it.

There is no proposition to give more power or jurisdiction to Presbyteries, so as to enable them to take into consideration any matters which they cannot now consider and decide upon. The object is quite different.

From the manner in which some of the recent discussions have been conducted, it might be supposed by those unacquainted with the nature of these questions, that the 'non-intrusion principle' really was a point different from that which was discussed and decided in the Auchterarder Case, and that the Church, in maintaining that this was a principle settled in the Church of Scotland, the recognition of which they ask from the State, were not now reasserting the matters disposed of by your Lordship in deciding that cause.

Considerable advantage has been taken, I find, in so representing the matter.

But this representation of the nature of the points now at issue is most erroneous.

One great point in the Auchterarder Case, *raised and pleaded by the Church itself*, was this; viz., that the non-intrusion principle, meaning thereby the necessity of giving effect to the *will* of the people, without any reference to or any judgment of the Presbytery upon the reasons which may influence the decision of the people, was a principle in the Church of Scotland evidenced and recognised in *her* acts, constitutions, and practice. The Veto act states this expressly in the preamble.

This was, *specially, distinctly, and separately, one great ground pleaded* on the part of the Church, in the Court of Session, and *even more anxiously* upon Appeal.

Your Lordship considered* by itself, this defence of the Veto act, viz., 'That it is a fundamental law of the Church of Scotland, that no person shall be intruded on any congregation contrary to the *will* of the people,'—and you examined carefully 'the evidence as to this being a fundamental law of the Church of Scotland.'

The Church exhibited most anxiously and fully, and in elaborate detail, the whole evidence to which they could appeal—their acts of Assembly—the proceedings of their Church Courts—the opinions of Church writers—every species of evidence to which they could appeal. And on examining the proofs which the Church exhibited in support of the Proposition, You deliberately arrived at the conclusion, that such a principle as that of non-intrusion, meaning thereby the right of the people to reject a presentee whom they did not like, and the power of the Church to sanction *that* objection, was not, and had never been, the law of the Church of Scotland. The Church has chosen to re-affirm that proposition,—and they require of government and Parliament to pass some general legislative measure, on the ground, not that this ought to be, but that *it is*, a fundamental law of the Church.

I trust that it will ever be kept in view, that your Lordship has pronounced your solemn opinion, after full discussion, that such has never been the law of the Church. It is not easy to suppose that your colleagues can be induced to take a different view of the question. I am persuaded, that with Parliament the opinion of your Lordship will have more weight than any other authority which can be adduced to it.

There are many persons, however, who may not study the question through the medium of law reports, and for whom it may be right to make some more general historical remarks.

In endeavouring to establish in 1833, (when he brought forward the first plan of the Veto) the principle of a negative on the part of the people, or the principle 'of non-intrusion,' as he then equally termed it, Dr. Chalmers alluded but to three authorities,—1st, To the Second Book of Discipline, in which, in fact, election is claimed for the Presbyteries; 2d, Then to an act of Assembly in 1649, when patronage was abolished by statute, and the power of regulating settlements given expressly by act of Parliament to the General Assembly; and, 3d, To the act of Parliament 1690,—a reference which shews that, at that time, it was not thought either strange or unconstitutional to appeal to the statute law in order to ascertain the constitution of the Church. In truth the authorities are but scanty to which reference can be made, even if others that are referred to shall be added.

It is unnecessary to consider these, for the discussion is exhausted. But it is important to remark, that it is only at two different periods,

* *O. inions*, p. 53.

and for two specific but different objects, that we find in the history of the Church, after the establishment of Presbytery in 1592, any indications on the part of the clergy of a wish to give effect, in any form, to the *will* of the people; and it is necessary to look to the circumstances of the times, and the objects for which it was asserted, when the expressions used at these periods are referred to as establishing any principle in the understanding of the Church. The prevailing feeling in Scotland, during the latter part of the reign of James the Sixth and after the accession of Charles the First, was, that the object of the monarch, and of his ecclesiastical advisers, was to introduce Popery,—or at least most of its doctrines and many of its superstitious ceremonials. That the apprehension was well founded cannot be doubted; but whether well founded or not, it was very general, and produced the growing and at last unconquerable aversion to the Hierarchy, by means of which it was seen that the court was endeavouring to carry forward their designs, and which appeared to be not only the fitting, but subservient instrument for promoting these purposes.

A singular sort of establishment had been formed, partly Episcopal, partly Presbyterian, and it was undoubtedly the object of the Crown and the bishops gradually to establish Episcopacy, against the wishes and feelings of the people. The patronage in the hands of the bishops and the Crown (and the patronage of most churches was either with the one or the other) formed a great engine for accomplishing the scheme which the court had in view. Men were placed in parishes who favoured, not merely Episcopacy, but secretly the more extended views of Laud and Spottiswoode; and, in an unsettled church, or at a period when the restraints of law were disregarded, and the object of the court was to introduce both a form of worship and doctrines abhorrent to the feelings and opinions of the people—when the question lay between Presbytery and Episcopacy, if not Popery—there were dangers to be dreaded from the Crown and the bishops possessing the patronage nearly of the whole churches of the country, which can never again occur. In 1638, the declaration of the Assembly, against the settlement of ministers contrary to the will of the people, was a declaration, in truth, against patronage, which the Church continued to denounce until they obtained, first, an act of Parliament as to the churches which had belonged to the bishops; and, lastly, a general statute abolishing patronage in general. The Church wished to effect a great change. That was their object. And it is really in vain to appeal to declarations made at this period in order to prove what was the constitution of the Church, either contemplated and settled when Presbytery was established in 1592,—or what is the constitution of the Church of Scotland, respecting the rights of the people, after the struggles and changes of the seventeenth century had passed away, and when the regular constitution of the Presbyterian Church, under the act 1592, was fully and finally settled at the Revolution. The short period of Presbytery from 1638 was followed, after the Restoration, by twenty-eight years of Episcopacy, characterised by oppression, cruelty, and persecution, which sealed the doom of that form of church government for

ever, and an end was put to the risk of its revival, though much jealousy remained against those who were its secret partizans, and gave rise to enactments utterly inconsistent with the principles of toleration.

But whenever the Presbyterian Church came to consider any form of church government, and to lay down any rules as to the appointment of ministers, they did not recognise in the people more than a right, on cause shewn to the Presbytery, to *object* to the persons offered to them by those with whom ought to lie the power and duty of selection. Even after the abolition of patronage by statute, your Lordship recollects that the General Assembly did not then allow the people to appear in any other character than that of objectors; and the Presbytery were to judge whether the objections were founded on 'causeless prejudices.' In short, as Sir H. Moncreiff says, the people were placed in their proper situation and character of *objectors*,—the only place ever assigned to them by the Church.

The most remarkable illustration of the complete understanding of the Church upon that point is, in truth, afforded by an act of Assembly in 1596,—a few years after the statute 1592 gave the power of collation to Presbyteries, and *imposed on them the duty of taking on trials the presentee*.

The Assembly complained that 'because by presentations many forcibly are thrust into the ministrie, upon congregations, that utter (confess) 'thereafter that they were not *called of God*,'—in other words, were not led to undertake the sacred office from any proper motives or with sufficiently serious views,—therefore, the Assembly proceeded to desire that 'none take presentations to benefices without advice of the Presbytery of the bounds':—The Church thereby establishing, with great propriety, prior trials and examination of those who should be candidates for benefices. But the notion of a right to reject is not once alluded to, or the original claim in the Second Book of Discipline, which the Church knew had been excluded by the statute 1592, again brought forward.

This act of Assembly proceeds to define at length the points to be attended to in the 'trials of persons to be admitted to the ministrie hereafter;' and in the enumeration of points to be attended to, the *will* of the people is not even hinted at, although every point is stated which ought to be inquired into, or could be made the ground of objection.

The act of Assembly then proceeds to declare, that 'because men may be found meet for some places who are not meet for others, it should be considered,' i. e. by the Church Courts, 'that the principal places in the realm be provided by men of most worthie gifts,' &c.,—and that none take the charge of greater number of people than they are able to discharge.'

The Assembly then points out all the matters of actual qualifications in the individual presented, in reference to the benefice to which he is nominated, which ought to enter into the decision of the Presbytery to which he is presented.

These are all matters of qualification *in the individual*, according to the estimate which the Church then took of qualifications; and matters for *the decision and judgment of the Presbytery*. Of course, when there was no regular system of previous trials and of licensing preachers, individuals might be placed in benefices to whose learning or principles no objection, at the time, was known,—but who, from the want of any preparatory system of training, were in truth little aware of the nature of the duties of the ministry. Yet, even in that unsettled state of things, it is very remarkable that not an indication is given of any right, on the part of the congregation, to refuse to accept the individual presented.

Accordingly, this act of Assembly is only appealed to, as shewing the extent to which the Assembly claimed jurisdiction for Presbyteries, in determining on the qualifications and fitness of a presentee for the charge to which he might be nominated. But that is a matter essentially and widely different from a right on the part of the people to reject, without either the power of inquiry or controul by the Church.

‘*Intrusion contrary to the WILL of the people*,’—is the expression in the Second Book of Discipline, and in 1638, which is appealed to in the present discussion.

This expression is seized hold of, and at once declared to mean an absolute *right* to reject,—such as the Veto law of 1834 bestows. It certainly was not so understood in Dr. Chalmers’s own motion in the preceding year. But one must look to the meaning in which the term was used by those who introduced and employed it on the very *few* occasions in which such an expression is found. Sir Henry Moncreiff has reviewed most elaborately the various *regulations* which the Church laid down at the times when they had authority from the State to make regulations for the appointment of ministers, or when they meant to say how they proposed to proceed in cases in which the patron had forfeited or would not exercise his right. And in no one instance is the *WILL* of the people, taken by any regulation of the Church to import mere *dissent*, expressed without reasons, and on which rejection was at once to follow, the exercise of which the Church could not consider, and the reasons of which the Church could not judge of or investigate.

It is a fact equally remarkable and important, that in support of such an interpretation of the term *WILL*, as importing a Veto or right to reject, there is not one *regulation* or *practical rule* or *mode of appealing to* or *admitting that will* which affords the slightest resemblance to the Veto now contended for, not even when patronage was abolished.

Indeed, until the doctrine of *right* in the Christian people was brought forward, it was quite impossible that any such notion could exist in regard to the sense in which the Church used the term *WILL* of the people. The doctrine of right, revived in the present day, Sir Henry Moncreiff has completely proved, was unknown in the Church till the period of the Secession. Now, the meaning of the term, *WILL* of the people,

(assuming that the use of the term on two or three occasions is in truth of any importance,) depends entirely upon the extent of acknowledgment, which those using it, made as to the *relative position* of the Church and the *people*, and of the right which the latter possessed. As the right was, as Sir Henry Moncreiff says, solely a right to object,—as in no case did the Church ever acknowledge any other species of right, it is perfectly clear that the expression was not used in reference at all to their position of objectors.

The expression was used,—*first*, as a protestation against the arbitrary and violent intrusion of Popish and Episcopal ministers, when the power of the Court and the persecutions of the Bishops *prevented the people from stating any objections whatever*,—and when the bishops settled those whom they chose, without the least reference to the characters of the men selected, or the objections which both the congregations and the Presbyterian clergy had against such scandalous appointments :*—and, *secondly*, it was used in order to make a declaration against patronage generally, and with a view to succeed in obtaining its abolition. And whenever it was abolished, the Church reserved to a select Body, (the Session), the right to propose the minister, and admitted in the people, even after the abolition of patronage, only the right to object,—the Church judging of the objections, as Lord Moncreiff in 1833 explained.

There is not a clearer or more complete demonstration on any point, than in Sir H. Moncreiff's work, to which I have referred. upon this part of the subject. The accuracy of his account of the Act of Assembly 1736, the last of the very few occasions on which such a general expression occurs, is so completely established, that I observe any reference to that Act of Assembly seems not to be a favourite topic in discussing on the right of the people.†

But without resuming matter, which, after all, was the very point considered in the Auchterarder Case, I wish to confine myself rather to the views which were not touched on in the discussion of the legal question.

And in this light it is that I press the remark, that the value of a general expression about the 'intrusion against the WILL of the people,' depends entirely upon the extent of the right then admitted in theory or practice to exist in the people.

The notion of a *right to reject* is utterly inconsistent with any controul or check or power of review,—for there is no right to *reject*, if another may judge of the reasons upon which you propose to exercise that right.

* Surely we are not to lose sight of the conduct complained of when this expression was used in 1638, and when we know how the bishops had been attempting to fill the parishes with the adherents of Episcopacy, by *preventing any mode of objecting by the clergy or people*. The Bishops had then the power of collation.

† See Appendix.

To establish this point is accordingly one great object in the series of Tracts published by the members of the Committee appointed to further the object of the resolution of the Assembly. Dr. Chalmers, it is true, in the note to his speech, which I shall presently quote, admits the necessity of most important and sweeping resolutions on the supposed right to reject: But he joins in writing these Tracts, of which those on this part of the subject contend for an absolute right of rejection on which there shall be no controul.

Thus in the very tract which precedes Dr. Chalmers's closing appeal upon the subject—the line of argument following up what had been urged in former tracts, is thus summed up by Mr. Cunningham:—
 ‘ If it be true, as has been proved from Scripture, reason, and experience, that the pastoral relation should be formed only with the consent of both parties,—and if it be absurd, as it manifestly is, to say that the people consent, unless they have *at least a Veto* upon the presentee, then, on these grounds, all the objections by which the Veto law has been assailed, may be dismissed at once as frivolous and unfounded. If this be the very smallest share of influence which, upon any thing like right principles, the Christian people ought to have in the settlement of their ministers, it can be no objection to the exercise of this *right* in reason, whatever it may be in law, that it imposes a certain restraint upon the patron in the exercise of his absolute right of nomination, or that it may sometimes be attended with injury and inconvenience to presentees. Nay, if the Christian people are *entitled* to this share of influence in the settlement of their ministers, the probability of their sometimes using it to their own injury by rejecting a man who might have proved a useful and edifying minister, can be no good reason why they should be deprived of it, for such a principle would sanction universal despotism, and tend to keep the mass of mankind in a state of perpetual slavery. There is nothing unreasonable in the people being *entitled* to dissent from a presentee without being called upon to state and substantiate the reasons of their opposition; *1st*, because experience abundantly proves, that the Christian people of a parish may have solid and reasonable grounds, that not only warrant, but require them to oppose the settlement of the presentee as their pastor, which they could scarcely state, and far less substantiate, in a court; and, *2d*, because, if the people are to state and substantiate the reasons of their opposition, while the Church Courts are to decide upon the validity of these reasons, this is virtually to deprive the people of all *RIGHT* whatever in the settlement of their ministers, for *nothing can be properly called a right, the effective exercise of which depends wholly upon the judgment or discretion of another party*. If the people, when a majority of them dissent, must give in their reasons, and substantiate them to the satisfaction of a Church Court, then the congregation or the majority of them, have no more weight or influence in this matter, than any single member has.

‘ The dissent of the congregation ought certainly to be founded in their own minds on reasonable grounds; but if their dissent is of no

‘ avail unless they can substantiate the grounds of it to the satisfaction of another party, then it is not *their* refusing their consent that excludes, whereas, upon every ground of Scripture, reason, and common sense, the *refusal* of the people’s consent ought to be sufficient to prevent any man from being admitted as their minister.’

There cannot be a doubt as to the accuracy of this reasoning *on the premises on which it proceeds*. Such limitations as Dr. Chalmers proposes, are utterly inconsistent with the *whole principle* of the Veto law of 1834, so far as any right to reject is acknowledged to reside in the people. His motion of 1833 was also utterly at variance with the doctrines now maintained by those who compose his Committee, and with the resolution of the Assembly in passing the Veto in 1834. There is no doubt of that. And therefore, in considering whether the Church of Scotland ever acknowledged the *WILL* of the people to be supreme and conclusive for exclusion, by any occasional use of a general expression, the point of importance is, was the *right to reject* in all circumstances, in a question with the Church, and as opposed to any inquiry by or responsibility to the Church, acknowledged by the Presbyterian Church to be in their people, in the sense in which, as matter of right, it is now contended for—contended for on the grounds explained by Mr. Candlish, as to the standing of the people in the Church of Christ? On this point, the very fact that the doctrine of right was first broached—as Sir Henry Moncreiff says, at the time of the secession—is perfectly conclusive.

Your Lordship, along with the Government, must consider whether you are to acknowledge this *RIGHT* in the people, on the grounds and to the extent contended for.

The Committee of the General Assembly have in their ‘Statement’ proposed,—as I presume, they have in their communications with the Government,—that the sanction of Parliament should be given to the principle of a right of rejection on the part of the people, without check or controul by the Presbytery. But that proposal, as expressed in the printed statement of the Committee, proceeds on certain important principles which the Committee announce they desire to establish. One is, (p. 5, 6)—‘ It might therefore be enacted, without reference to the question of what the law hitherto has been, that it shall henceforth be understood to be competent for the Church, without forfeiting the civil rights or privileges of its establishment, to act in accordance with its own declared principle of non-intrusion. Such an arrangement would clearly shew what is the utmost extent of the limitation which the Church has sought to impose on the exercise of patronage; and at the same time, the *authority of the Church would be reserved entire to regulate, within that limit, its own proceedings in this matter according to its own judgment*. It might further be necessary to provide that, whatever may be the rights or interests of other parties, the power of the Church judicatories to judge of the qualifications of ministers, and of their *suitableness* for the parishes to which they are appointed, must be maintained inviolate.

‘ It is to be observed, that, in dealing with the government and the Legislature on such principles as those now laid down, the Committee do not in any degree compromise the authority of the ecclesiastical judicatories, as it may be exercised in the matter of the settlement of ministers : *nor in any way commit the Church, farther than the Church has been inclined to commit itself.* We do not ask the State to *enact and ordain the present law* of non-intrusion, but simply to *allow it*, in respect of civil consequences, as enacted and ordained by the Church. We require, that, to a certain definite and specified extent, the patron’s right shall be held to be limited, in order that the Church shall be able to give effect to the will of the people. But within that maximum, *it belongs to the Church itself to do this, according to its own regulations.* For it is to be kept in mind, that, in the whole of this negotiation, we are dealing with the will of the people, not in its relation to the authority of the Church Courts, but merely in its relation to the right of the patron. Suppose our object gained,—we have it determined, that the will of the people, as recognised by the Church itself, shall be held as a valid restriction on the will of the patron ;—that, in so far as the patron’s right might interfere, the Church shall be held to have power, without fear of losing her established statutes, to give effect to the will of the people, as expressed in her own courts, and subjected to her own jurisdiction.’

Another very important principle on which the proposal of the Committee proceeds, is—that the *mode of giving effect to the will* of the people, and to the principle of non-intrusion, shall *not be set forth in any statute, but left to the authority of the Church Courts to be regulated and carried into effect in the way they think best.* The Committee does not wish that the Legislature, in altering the law to the extent of giving power to the Church to give effect to the principle of rejection, *should fix or settle any thing.* The Committee do not propose that the Legislature should enact the Veto law of the Assembly, or indeed decide or establish any thing whatever. And, above all, the Committee do not wish that the Legislature should define or fix any thing as to the extent of the jurisdiction of the Church, but only that the power of the Church to give effect to the will of the people in the Church shall be considered and recognized ; while the whole measures for the appointment of ministers which are to be framed on that principle, either now or at any future time, by the Church, shall be left wholly to the Church!!

Such a plan will concede everything, and fix nothing. If anything is to be done by Act of Parliament, surely it is fitting to put an end, if possible, to further agitation and discussion on such questions. It is surely high time to ascertain and fix what measure it is which the Church means finally to recommend : And if that ought to be agreed to, to fix and establish at last some final system on so important a point. Above all, when questions are raised as to the Independent Jurisdiction and legislative power of the Church, leading to results so alarming, it is surely necessary, even if the practical point ought to be yielded on which they have taken their stand, to decide by Act of Par-

liament, to what extent the State means to recognize any such jurisdiction. Simply to declare by statute that effect must be given to the will of the people, and to acknowledge the inherent and independent power which the Church claims to *give effect to that will in the way they may choose*, and to lay down any system for the appointment of ministers within that general principle, which now or hereafter, from time to time, they may think proper to adopt, would be to acknowledge that jurisdiction *to the full extent* now at issue, and to leave every thing as to the future constitution of the Church regarding the appointment of ministers, not only unsettled, but as an open question for constant dispute and discussion.

This is precisely the result which the Committee desire. In the first place, their 'Statement' anxiously explains that their object is to prevent any *interference with or definition or limitation of the authority of the Church*. In the second place, the Committee *do not wish the Veto law established and fixed* as a permanent measure, or as any final settlement of the question. It is well known that a very large portion of those who have concurred in obtaining and defending the Veto act, are not by any means satisfied with it, either in principle or in its working. I have shewn the opinions of Mr. Candlish—the views of Mr. Dunlop are recorded in his evidence before the Patronage Committee in 1834. and in various debates in the Assembly in subsequent years. Dr. Burns (a leading speaker in support of Dr. Chalmers's motion) declares in his evidence before the Committee, that the *Veto act will never do*; and in his published speech in support of the motion, said, 'I am no Veto man.' All the ante-patronage party are greatly dissatisfied with a measure, which they value only as a stepping-stone to the ultimate abolition of patronage.

Accordingly, the motion proposed to be made in last Assembly, in order to obtain the abolition of patronage, and to carry into effect Dr. Chalmers's own principle, that it exists only by the tolerance of the Church, (a principle which wholly disarms him as an opponent of the competency of its abolition at once by an act of Assembly,) was only waived on the express and distinct assurance that the existence of patronage at all was to be an open question in the Committee, and in the negotiation which may follow with the Government.

Again, all those who think that there must be a *consent* by the people, in order to establish the pastoral relation, view the Veto as inconsistent with the first principles which ought to regulate any such measure.

The 'Statement' or circular of the Committee, sufficiently proves that they know well that the Veto is not to be considered as a question settled or decided upon by the Church, and that the Committee desire that nothing shall be proposed or arranged on the footing that the Church is to adhere to the Veto law, such as it has been passed and is acted upon.

The 'Statement' is indeed a singular document, considering that the Assembly not only passed the Veto Act several years ago, but have, in defiance of the judgment of the House of Lords, taken their stand upon it, and declared their resolution to enforce it.

The Committee take all points to be quite open. They discuss whether it will be *most expedient* to apply to Parliament for a repeal of the Act of Queen Anne as to patronage. The reasons for not pressing that measure are reasons of *expediency* only, affecting the probability of success; but there is not one single sentence, in point of principle, against the abolition of patronage. On the contrary, the Statement proves, 1st, that the Committee hold, most correctly, that the non-intrusion principle, as that is interpreted by them, leads necessarily to the right of election; and, 2d, that they regard this as the proper measure.

Then the Committee discuss the second plan which had presented itself to them, viz. to require the consent of the people by a positive call. 'The sanction of the legislature might be sought to the *requisition on the part of the Church*, of a positive call by the people. In many respects this might be regarded as a *material improvement* upon the *present state of the law* (!) of non-intrusion. From the first, there *has been a pretty general feeling in the Church*, that the positive call is *preferable to the provision* of the late Act of Assembly, as having *less of the appearance of an innovation*, and as *placing the people in a fairer and less invidious position*.'

This passage is a sufficient demonstration to every one, that the Veto Act was not part of the regulation of Calls; that the title so given to the act of Assembly was a mere disguise; and that all that part of the argument in the Auchterarder Case, which sought to find a defence for the Veto Act in the principle of the Call, *was totally inapplicable and unsound*. This is no unimportant admission, considering the efforts made to induce the Court and the House of Lords, and still more individuals, to believe the very reverse.

I think this passage also proves, that in the opinion of the Committee, the Church is not in truth contending for any particular rule or principle as already *fixed* in the constitution of the Church, but is, under the shew of standing out for some rule as irrevocably fixed at the period of the Reformation, endeavouring now to devise what rule upon the subject it is most expedient to adopt.

The reasons stated by the Committee for not proposing at once a 'requisition,' as they term it, on the part of the Church, of 'a positive call' by the people, are also reasons of expediency alone, respecting what is best for obtaining the *general* act which they desire to have passed. One reason for not proposing a 'positive call' is, that a question might arise as to *what amount of concurrence by the people* should be required; and in that discussion, it is said, the legislature might go farther in the way of interference than it might be proper 'to give them an occasion for doing.' 'If, indeed, the legislature were disposed to leave the point altogether indefinite, recognising the power of the Church to determine *either generally* or in *reference to each particular case*, what should be regarded as a sufficient call, and simply declaring that the act of the Church, requiring what it might judge a competent call, *whatever that might be*, should carry civil consequences; in that case, the matter in question between the State and the Church would be

‘placed on a *very satisfactory footing*.’ And accordingly, the principle that ‘a positive call by the people’ is the true method of enforcing the principle of non-intrusion, is not only not abandoned by the Committee, but is obviously that which on the whole they approve of, and wish to obtain the power practically to establish. The proposal that the legislature shall simply acknowledge that the Church is entitled to *give effect to the will* of the people—committing the mode of doing this entirely to the Church, and shall also acknowledge the power of the Church to judge of the *suitableness* of the presentee, in all other respects over and above qualifications, in the widest sense of that term—is plainly intended to leave it open, as it unquestionably would, to all to begin to agitate the question of such a Call—and is designed with the view of reserving to the Church the power of declaring that until the presentee receive the *assent* of the majority (whose *dissent* at present operates as a rejection) the pastoral relation cannot be constituted in the way to promote his usefulness, or to secure for it the divine blessing. The true object of the Committee is to obtain an acknowledgment of the power of the Church in *general* terms, so as to enable them to require the *call*.

If the design is not to leave this and other questions open—if the necessity of a call is not to be kept in reserve as a source of further discussion, and for further measures—if the principle of the necessity of a call or assent is to be abandoned—then why should not the legislature, when applied to for an alteration of an existing law, declare and settle finally, in order to prevent all further discussion, what the precise measure is which it will sanction, as the mode of giving effect to the will of the people.

But to any such precise and definite adjustment of the question a great proportion of the supporters of the resolution of last Assembly would be decidedly opposed; for they are not satisfied with the Veto act, and hold it to be liable to the most fatal objections, founded on the ‘fundamental principles’ of the Church, as understood by them. The Committee admit that such has been ‘a pretty general feeling in ‘the Church.’ Dr. Chalmers, as the author of the Veto law, must have made with deep regret the admission, that his measure has been so unsatisfactory, generally speaking, to those acting with him; and he must have encountered a very strong resolution to go further, and to obtain ‘a preferable measure,’ before he could have been induced to promulgate a statement which seems only to create more distrust as to the measures which are pressed so vehemently on Government and the Legislature. But it is notorious that the Veto act was never approved of as the right measure, by many leading members of the Committee and their deputation to London. Their opinions have been openly avowed. These opinions, and all the views giving rise to them, remain as the source of further and future discussions to which the Church of Scotland is yet to be exposed. The extent of these opinions I have already pointed out; and at a meeting in Edinburgh, soon after the Assembly, attended by most of the Edinburgh clergy who support these changes, it was sufficiently announced and demonstrated that to these opinions they are re-

solved to adhere. The only clergyman, of the number present, who spoke, declared his hostility to *patronage*, 'as the root and spring of all intrusion;' and from that declaration of views there was no dissent. And that clergyman accordingly furnishes one of Dr. Chalmers's series of non-intrusion Tracts.

In the General Assembly, as already mentioned, the discussion of the question of the abolition of *patronage* was waived for this year, only on the understanding, publicly stated in the Assembly without contradiction, that that question was to be an open point in the Committee, and in the negotiations with Government. Another very material point is, that the Committee have no power to bind the Church or Assembly to any measure which might be introduced at the beginning of next session, and before the next Assembly, limited simply to the enactment by statute of the Veto act, or restricting the power asked for by the Church to that measure alone. On the contrary, the Committee could not hold out any such assurance; and every one connected with the state of opinions knows well, 1st, that a statute fixing down the Veto as the final settlement of these matters, is not the measure which a great proportion of those voting for Dr. Chalmers's motion would sanction or tolerate; and, 2d, that the intention is to go on either to obtain the abolition of *patronage*, or the 'requisition' of a positive call or assent by the people.

In the above remarks, I have not included the Supplementary Note circulated in London. The Committee having first prepared their Statement, and appointed a Deputation, 'it appeared proper to the members of the Deputation to offer a few remarks in explanation of some 'parts of the Statement referred to.' There can be no assurance that any suggestion coming from a part only of the Committee will be generally agreed to, or that it represents the aggregate opinion of the Committee, much less of the parties in the Church whom the Committee represent.

The Deputation throw out two suggestions,—

'For the sake of distinctness, and in order to illustrate the Committee's views, and to bring them to a precise point, it is submitted that the Legislature might be asked in substance to enact, "That in all cases in which the presentee of the *patron* of any living in Scotland shall have been rejected by sentence of any competent Church Court, in respect of the dissent of the major part of the male heads of families in communion with the Church, members of the congregation, in the vacant parish, all right and interest of the presentee in the presentation granted to him shall cease; and if the *patron* shall not, within the period competent to him by law, present another qualified person, the right of presentation shall for that turn fall to the Presbytery, *jure devoluto*."

'It should be provided also and enacted, "That it shall be always understood to be in the power of the competent Church judicatories to take, treat, and judge of the qualifications of the presentee, and his SUITABLENESS in ALL OTHER respects for the charge to which he has been presented."

The latter suggestion is plainly intended to leave open both the question of consent or concurrence by the people, and every similar point which can be raised. To leave to the Church, by express and general enactment, to consider whether the individual selected is 'SUITABLE' 'in ALL OTHER respects,' (in addition to qualifications), 'for the charge' 'to which he has been presented,' is most manifestly meant to reserve to the Church to reject upon *any* ground whatever in the individual case which they choose to adopt, and to relieve the Church Courts from the necessity of acting in a judicial character, or proceeding upon any judicial ground.

If the individual has not a sufficient expression of *consent*, though he may not have been vetoed,—or if the Church choose, without pronouncing any judgment on his qualifications, to say,—we take as conclusive the fact that a small minority have dissented,—we look to their opinions as most important, and we will not settle, whatever be the qualifications of the presentee,—or we do not like this person's general politics,—in short, upon any ground whatever the Presbytery will be entitled to reject, although they must have acknowledged the individual to be eminently qualified for the charge, if they had been compelled to proceed on any ground which could be reduced into precise or intelligible language.

Dr. Chalmers has said that the Presbyteries may reject a presentee, if they choose, because he is not six feet in height. But even that reason need not be assigned. Is it not enough that they *may* reject the presentee (although duly licensed by another Presbytery), if his stature is a *physical deformity*, so as in their judgment to render his appearance in conducting public service an outrage to the feelings of propriety?

The proposal last quoted appears to me to be the most insidious and alarming which has yet been made. It not only leaves the whole power, as to the nomination of ministers, in the Presbyteries, but to any one who has seen the practical working of the system in Church Courts, when the check and controul of regular judicial process and judgment is once withdrawn, and all are allowed to act on their own notions of *what is expedient* in reference to individuals, the tendency will be to throw the power of election into the hands of the Presbyteries. It was well argued by one of the most zealous supporters of the Veto, the Rev. Professor Brown of Aberdeen, in the Assembly of 1836 (in opposing a motion against patronage) that any measure attended with the result of throwing influence into the hands of the Presbyteries, would be the very worst which could be devised, and the most unsatisfactory to the country. Practically, the effect of bestowing this vague, indefinite, and unlimited power on Presbyteries would be this,—that the majorities in the parties in Church Courts would in many cases reject every man not of their own party.

Such a scheme, in truth, destroys *the right of appeal*. For if the Presbytery of the bounds are to be entitled, without *assigning* a reason, to say, that for the good of the parish, they do not think that the individual is *suitable*, and that such is *their* declaration with the local

knowledge of the parish, of what avail can any appeal be to a superior court, when *law shall entrust this power* to the Presbytery, who are, it will be said, best acquainted with the facts?

I am well aware of all the great and solid advantages resulting from the principles of Presbyterian Polity which vest the administration of the government of the Church in Courts composed of the ministers sitting in Presbyterian parity, (it is seldom that the lay members of Presbyteries interfere in such questions.) But the whole experience of human nature, and the result of all experience as to the working of the system of Presbytery in Scotland, just as strikingly and forcibly prove the absolute necessity of regulating by precise and definite limits, the authority which is to be committed to these popular courts or assemblies—that to give them unlimited and undefined power to reject whoever was in their view not *suitable* in *all* respects, and to impair the controul of a right to appeal from the reasons stated by the Presbytery as insufficient for judgment, would most infallibly give a licence to the indulgence of all the hostility and bitterness of feeling, which ecclesiastical parties have been, by too fatal experience, found to engender. Majorities would reject individuals, who they knew would not be adherents of that system of ecclesiastical polity by which alone, the contentions of party lead them to think that the whole glory of the Church, and the good of their fellow-men, can be promoted.

It is quite impossible to conceive any form of words so curiously vague, and so mysteriously indefinite, unlimited, and comprehensive, as this proposal in regard to the general power which the Deputation, by this suggestion,—thrown out as a sort of innocent and unimportant addition to the first proposal,—desire to be superadded to the sanction of the Veto. I think I may safely ask your Lordship whether this proposal does not confirm and illustrate all the remarks I have already made as to the desire which is at the bottom of all their plans, practically to engross and concentrate in Presbyteries the complete direction and controul of the nomination to the whole livings in Scotland?

Nothing is said in this most convenient sketch of a general enactment, as to what is to take place when the *Presbytery present*.

The Supplementary Note states—and correctly—that the principle is contained in the general enactment of 1834: And the regulations for carrying it into effect, the Deputation go on to say, they wish the legislature not to interfere with, but to leave to them. Under this further power, any one who understands the subject must perceive, that the Church may practically ensure themselves still greater influence, both in fixing the mode of nomination of ministers and in the direction of the individual settlements.

One curious part of this proposal is, that the rejection *by the proposed laws* is to operate against the patron's right in the same manner as any deliverance by the Presbytery pronouncing the individual to be

unqualified. But is it to be held in a question with the patron, that it is any *disqualification* in the individual chosen by him that the people reject him; and therefore, that he should only have the same period of the six months still remaining to him as if he had presented an unqualified person? Is it any fault on the part of the patron that the person has not pleased the people? How can that be maintained, if the Presbytery do not try the individual and decide that he is unqualified? The only ground on which such a doctrine can be maintained is, that the patron ought to have consulted the people previously, or to have given them their choice. Is that then the theory of the Veto, to which at last we come, after all the views maintained by its original friends and supporters? It would be difficult to maintain any such doctrine consistently with even that notion of the right of patronage which the Veto professes to leave.

Then why, if the patron, after great care, much inquiry and pains in ascertaining the opinion of the parish, presents an individual, say in the fourth or fifth month, and that individual is vetoed, is it to be held that he should be in the same situation as if he had presented an *unqualified* person, seeing that the Presbytery have pronounced no judgment on the presentation, and have not moderated between the two parties? I ask, why is the portion of the period of six months to be lost to the patron, which he may have conscientiously employed in looking out for a fit man? Have the Presbytery found the presentee not to be qualified? Not at all. They cannot try him. And yet the effect is to strike off the whole of that period from the time during which the exercise of the right is competent to the patron, exactly as if the presentee had been found on trial to be disqualified, and the Presbytery are to gain, by the rejection promoting the chance of the *jus devolutum*.

Again, supposing the Church shall allow—(for the power to do so or not they desire by this sort of general provision, directed against *patrons* alone, to retain in their own hands)—the Veto to be exercised against *their* nominee when they get it *jure devoluto*,—what is to be the result if their individual shall be vetoed? Shall the right then revert to the patron? Are the Presbytery to be allowed to go on appointing as often as they choose, though the people, if the Presbytery will not give them their own man, may reject in repeated instances? This would be a singular result, and yet this may be the case if the Church allow the Veto to apply to a presentation by them.

In point of sound principle, the Church would act rightly, if they do not admit the Veto in such a case, and if they adhere to the original regulation on this point, from which they only departed when they found how the inference derived from it affected the argument in the Auchterarder case. But if they do exclude the right to reject the man selected by themselves, clear it is that there may be intrusion against the *WILL* of the congregation just as much as in the case of any individual presented by a patron.

But it is now impossible for a portion of the Church, after the exposition of the doctrine made by Mr. Candlish and the Committee, to reserve

the power to exclude the Veto by the people on a nomination made by the Presbytery. The *right* to reject now contended for is the same whoever nominates, and rests on grounds which put the people on a footing of perfect independence in a question with the Church: it would be lording it over the Lord's heritage to attempt this,—it would be against Scripture, for the people are to try the spirits. And if not excluded, it seems rather hard that, if the presentee of the Presbytery shall be rejected, the nomination shall not revert to the patron.

In truth, a rejection ought to infer a forfeiture of the patron's right, when there is no judgment of the Presbytery, ('moderating between 'the people and the patron,') unless upon the doctrine that the patron should give the people their choice, and that the selection of a qualified person is not all that is required from him.

In giving an account of the resolution of the Assembly, and of the position thereby taken by the Church, there is in the 'Statement' of the Committee the same erroneous representation of the object and effect of that resolution which runs through part of Dr. Chalmers's speech. It is very singular that there should be such anxiety to keep back the plain facts.—(1.) That the Veto act is in general terms adhered to and enforced: (2.) That it remains at present as enacted in 1834: (3.) That even the amended *regulations for carrying it into effect* were re-enacted this year: And, (4.) That the Presbyteries are *thereby bound*, and were, moreover, *specially directed* to act upon the same. Why is this so wrapt up in obscurity? Had Dr. Chalmers some forebodings that the motion, as put into a practical shape, would not '*repair* 'the BLUNDER?' Is it now seen, that a plain avowal of what the Assembly has done, might alarm the public too much? The Committee say in their 'Statement,' '*We supersede*, therefore, the discussion of the inquiry—which is the right interpretation of the law? 'that which the civil court has now adopted, or that on which the Church proceeded? We do not *now* involve ourselves in a legal question in controversy with the civil court. We apply ourselves to the accomplishment of a practical object, through means of a negotiation with the State itself—the Legislature. We inform the State, that according to the principles of our constitution, we, in our spiritual department, cannot acquiesce in the terms on which the civil court has declared that we hold the privileges of our establishment. We ask the State, for the sake of the great ends for which an establishment is instituted, to consider how the terms of it may be arranged, so as to be in accordance with what we understood them to be, and what we think they ought to be. Such, in *substance*, may be regarded as the *real position* which the Church has assumed in the recent decision of the General Assembly, and the subsequent appointment of a Committee; such is the proper business given in charge to the Committee.'

Now, this is not the position taken by the Church. The resolution of the Assembly does not start from a general principle—throwing aside the contest as to the competency of the Veto act, as a thing gone by, and rendered immaterial by the Church taking a *new ground*.

The Church has *now* deliberately, and by this last Resolution of the Assembly, put itself in open disobedience to the law. The question of power is now of tenfold greater importance, and more urgent practical moment, *because* the Assembly *continue* to act, and have resolved solemnly to *act*, upon *their* declaration as to the law. Nay, the very question which is said to be superseded, is in truth now raised, and *only now* raised, in the shape in which it requires the decided interposition of Government. The Church will not obey the law. To be sure they also ask for the alteration of it. But how does that, in the least degree, alter the great fact, that, in the mean time, they refuse to obey the law? Can there be greater sophistry, then, than this singular account of what the Assembly did? The Church, holding and proclaiming the decision of the House of Lords to be wrong—holding the whole matter of the Veto to be entirely within their cognizance—declaring that they will not take on trials, according to the duty imposed on them by statute, any presentee whom the people veto—resolved to enforce the Veto, without abiding the result of any negotiation with the Government or Parliament, and whether they succeed or not in obtaining any concessions or authority from Parliament. Hence there cannot be a more erroneous representation than the Committee give of the proceeding of the Assembly.

The true test is this,—*Do they mean to perform the duty imposed by statute? Do they take on trials a presentee, notwithstanding the Veto?* If not, they *do* act on the resolution that they were right from the first. They do disobey the law. They have declared their resolution to disobey it. They adhere to ‘the **BLUNDER**.’ They resolve to abide by it. Nay, they make the blunder worse. The blunder was in passing the Veto act of themselves. And they publicly declare, that they are resolved to enforce it, after it has been found by the judgment of the House of Lords to be illegal, and a violation of statutory duty.

Dr. Chalmers, in the Tract to which I have adverted, in the course of his appeal to the people of Scotland, declares, that the Assembly have done nothing at all,—that they have taken no step in advance,—nay, that they have removed all cause of conflict in the meantime,—and thus puts the matter:—‘The General Assembly have done their uttermost to save the possibility of any conflict, while their general attempts for an adjustment are going on. They have resolved to *suspend every new case of a Veto which might occur till the next General Assembly.*’ Of this almost unaccountable passage, I shall only say, that it confirms the impression, that Dr. Chalmers did not see the turn given by others to the motion in favour of which he spoke. If this passage has any meaning, the result should be, that whenever, after a presentation was before the Presbytery, the people *proposed* to give in their dissents, the resolution of the Assembly ought to have suspended the law of 1834,—have declared that the dissent was not to be allowed,—have directed the Presbyteries to stop at that stage, and to report that there was a disposition to dissent, but by what numbers, or by whom, the Presbytery did not know. This would have been one way of suspending the Veto. But this is not done. This would have

been, to a certain extent, concession by the Church. But the law of 1834 remains in force : Nay, Dr. Chalmers argued, that without the consent of Presbyteries, the Assembly could not, on ecclesiastical grounds, either suspend or repeal it : He objected to Dr. Cook's motion on that ground. The regulations for carrying it into effect *were re-enacted by last Assembly*, and sent down to Presbyteries : The Presbyteries must admit the Veto, and take the dissents. The rejection is then final : they must intimate the rejection to the patron,—if the patron and presentee acquiesce, they have nothing to report. It is only disputed if the presentee means to contest the legality of the Veto,—and then the matter is to be reported, instead of the Presbytery exercising the right of appointment themselves *tanquam jure devoluto*. This is what Dr. Chalmers describes as suspending any new case of Veto which might occur ! Literally, what is to be reported is simply the filling up the parish by the Church, which might separate the ministry and the legal provision for the same, and which the Presbyteries are for this year prevented doing.

I venture to suspect, that Dr. Chalmers has not bestowed much time on the series of Tracts, of which his is the last, when he wrote this sentence. In them he would have found full explanations of the *Watchword* of 'the right of the Christian people,' and might then have seen that, consistently with the opinions contended for, it would have been strange if their advocates had yielded such a point, as not permitting the people to dissent in cases which might occur this year, and making the right in these future cases to depend on the contingency of the State sanctioning the Veto.

The tracts which precede his justify what the Assembly did. They contain no such disguise of the matter as is attempted in the Statement of the Committee :—In them the leading members of the Committee state the facts in the plainest terms, and this very circumstance renders the explanation given in the Statement circulated in London the more extraordinary.*

* This tract by Dr. Chalmers draws an analogy between the proceedings I have adverted to, and the course which a Committee of the Assembly have pursued in regard to a case which has occurred, as to the collections made at the doors of the new churches which have been erected into parish churches. His statement is an instructive one.

The heritors in the case referred to contended that collections at the doors of parish churches, in part belong to the poor ;—that this is an important and fixed principle in the law of Scotland, and one which operates most favourably, not only in preventing assessments, but also in promoting frugal administration of the funds for relief, and in cherishing feelings in the people themselves in regard to parochial aid, who very generally contribute even out of their earnings to the collection at the Church doors.

In order to defray the debt incurred in building some of these new Churches, it was resolved, after these chapels had been declared to be

IV. It might not be an unimportant point for practical inquiry—
What causes have contributed to bring about so very extraordinary a

parish Churches for the districts attached to them, to appropriate the collections at the doors of these new Churches to pay off debt, or to pay the provisions for the ministers—introducing for parish churches in fact the Voluntary principle. The heritors in this case objected. They (Lord Panmure and others) had themselves subscribed great part of the Fund for building the new Church by liberal donations :—They offered to let a *proportion* of the collections be appropriated in the way intended, in which case they must have themselves made up the deficiency for the relief of the poor. Even this was refused. The whole was claimed. The heritors may be wrong in point of law. But the Court at least found that they were right, and that the *collections could not be so appropriated*. On the point at issue I mean to say nothing—but this Tract, intended, I presume, to convey an intelligible direction to all parts of the country of the course to be followed in similar cases, thus states the mode in which those directing these proceedings have evaded and nullified the law, and draws from this a proof of *the disposition of the Church to obey the law !*

‘ Notwithstanding the hard names which are annexed to our proceedings, I must utterly disclaim the imputation of being either the abettor or the head of any rebellion because of them. To take an analogous instance. The Court of Session have recently found, that the heritors of every parish have a right to appropriate the ordinary Sabbath collections taken at the doors of our unendowed churches. Did we continue to hold these collections, and seize upon them for ourselves, and resist, perhaps with the help of a multitude upon our side, every attempt, on the part of those to whom they legally belong, to wrest them from our grasp ; this would be rebellion. But this we have not done ; and yet, in the only instance where I know that the right has been insisted on, the *whole value of it has been nullified to the heritors*. The collection has simply been discontinued ; and the money which wont to be raised in that way, is raised in another, by domiciliary visits, or a weekly round among the houses of the contributors. *The plate is no longer set up, and the elders no longer stand at it*. I have not heard of any order from the Civil Court on the Kirk-Session, to restore the plate, and go on with their accustomed rotation. But if, for the purpose of making good their own declaration as to the right of the heritors, such a mandate were to come from them, and that mandate to be withstood, I should expect hard names in consequence,—rebellion, and contumacy, and resistance to the law of the land. It were, no doubt, a most unseemly collision, arising from a grievous error somewhere,—whether of overstepping, on the one side, or of refractory opposition on the other ; and yet, unequal as the contest may seem, and immeasurable the disparity, between the Court of Session, the highest judicial body in the country, and the Kirk-Session, the humblest ecclesiastical body in the Church, let but even-handed justice step in between them, and it

state of things in the Church of Scotland, and to give such a sudden start and licence to opinions which Sir Henry Moncreiff treated as matter of historical reflection, and regarded as so completely set at rest, that he left his advice and warning to the Church, that 'the revival of the 'controversy' would be detrimental to the interests of the Church? Such an inquiry would probably suggest some important views as to the necessity of withstanding all indications of a desire for innovation which the popular assemblies of a Presbyterian Church may at periods of excitement display, and of the practical wisdom of that system of guiding their deliberations on which such men as Dr. Robertson, Dr. Hill, and Dr. Cook, were so long enabled to act.

' would pronounce of the said error, that it lay not with the party who resisted the order, but with the party by whom it was given.

' I quote this instance all the more readily, because of the *immediate cognizance which we of the Church Extension Committee have been led to take of it*. And, without the consciousness of one rebellious feeling, *we are doing all we can to arrest the execution of the law*, in which, if we do not succeed, our next attempt will be, not to 'obey the law, but to extinguish it.'

Then Dr. Chalmers explains that they intend first to appeal, then to go to the Legislature to get the law altered, but in the mean time actually states that they are obeying the law, when the kirk-session at this new Church—that is, the minister and elders—do not (and, as I understand from the Tract, with the sanction, if not by the direction of the Church Extension Committee) put out any plates at all at the church doors, at which the elders do not attend—give the people no opportunity of giving their collections—and privately go round and get from the people what they choose to give, as the substitute for the contribution, which, when given at the church doors, if plates were put there and the elders attended in the performance of their proper legal obligations as parochial elders, would belong to the funds for the poor. Dr. Chalmers justly describes this as *nullifying the law*. He further holds it out as a proof of the disposition to *obey the law on the part of the Church!* The instance is not a very happy one, but it is instructive as to the practical effect on the civil interests of parties, and on the economy of the social system, of the views as to the duty of the Church in relation to the law, on which the members of the former propose to act. The *end* in view seems to sanction any *means* of promoting that end. I presume, in a question respecting the performance of an obligation by A to B, Dr. Chalmers would not have quoted this as an instance of the disposition of A to obey and give effect to a civil decree. It is plain that if the Church thought fit, they might with equal propriety follow the same course as to the collections hitherto made at the doors of the regular parish Churches. It is really very sad to think that such directions should be given to the people of Scotland, in order to defeat the law on so important a matter as the collections for the poor at the church doors.

But I propose only to direct your Lordship's attention to a change in the composition of the Church Courts, which, I believe, has tended very materially to determine the spirit and character of the more recent proceedings of the Church, especially in the last and preceding Assembly. The fact to which I allude, affords an instructive admonition as to the necessity of withstanding and resisting the principles as to the independent jurisdiction of the Church, and the plans of ecclesiastical usurpation which are now exhibited. For one great cause of the predominance of these principles at present may be found in the effects of a *great constitutional change in the composition* of the general Assembly itself, and of all the inferior courts, which *was effected by the Assembly itself, in the assumption and exercise of power which did not belong to it.*

I have now to call the attention of your Lordship to an act of the General Assembly, the incompetency of which startled every layman in Scotland who understood the subject, and the effects of which very soon told on the character and temper of the Church Courts in many parts of the country, and especially of the General Assembly, the composition of which it materially affected.

For many years a great number of chapels had been built in many parts of Scotland in connexion with the Establishment. These chapels were in all material respects on the same footing with similar chapels in England—perhaps with some advantages. Your Lordship is also aware of the great efforts made during the last five or six years to increase the number of similar chapels throughout Scotland, and of the applications which have been made to Parliament and to the present Government for endowments for the ministers of these additional churches, which have been built by subscriptions, for the districts where the Church accommodation was utterly insufficient for the people.

This state of things—the want of Church accommodation, especially for the mass of the lower orders in great towns and populous districts—is the most fearful of all national calamities.

I do not wish to enter into the question, (which does not belong to the subject of this letter), as to the propriety of the course of conduct which the Government have followed on this subject. But there is one practical blunder in the decision which they formed, the consequences of which will be very serious to the country in other respects.

By the constitution of all or most of the old chapels, the clergyman was chosen by the seat-holders or communicants, or some similar body. When the new churches were begun under the direction of the Committee of Assembly, and by means of the subscriptions which their great efforts called forth, the course for the Government to adopt, when application was made to them to endow the clergymen of these additional churches, was to act on the principle followed by Lord Liverpool's government, when the forty Parliamentary churches were, by the exertions of my excellent friend and former colleague, Sir William Rae, established in the Highlands, viz. in return for the advantages and en-

dowments to be given by the country, to stipulate that the *patronage* of these churches should be vested in the Crown.

Without reference to the paramount obligation on the Government and legislature to extend at all times the efficiency of the national Church, this was also, on the most manifest considerations of general policy, the expedient course for the Government to adopt.

That the subscriptions would not have been given for this great Christian object, to the same, or nearly the same amount, if the Government had acted on this principle, was a very politic argument for the enemies of patronage to hold out, but one, I believe, utterly without warrant in the feelings throughout the country as to the importance and necessity of additional Church accommodation for the poorer classes, in which these subscriptions originated.

In the meantime the General Assembly of 1834, by a sweeping enactment, proceeded at once to declare, 'That all ministers already inducted and settled, or who shall hereafter be inducted and settled as ministers of chapels of ease, presently erected and established, or which shall be hereafter erected and established, in terms of the act anent Chapels of Ease of 1798, or prior thereto, by authority of the General Assembly, or by the Presbyteries of the bounds, *are and shall be* CONSTITUENT MEMBERS OF THE PRESBYTERIES AND SYNODS within whose bounds the said chapels are or shall be respectively situated, and ELIGIBLE TO SIT IN THE General Assembly, and shall enjoy every privilege, as fully and freely, and with equal powers, with parish ministers of this Church: (!!) hereby enjoining and requiring all Presbyteries, Synods, Church Courts, and judicatories within whose bounds the said chapels are or shall be situated, to receive and enrol the said ministers as members thereof, and put them in all respects on a footing of Presbyterian equality with the parish ministers of this Church; giving, granting, and committing to the said ministers the like powers and authority and privileges now pertaining to ministers of this Church, within their respective bounds: And the General Assembly did, and hereby do, remit to the Presbyteries within whose bounds the said chapels now established are situated, to allot and assign to each of the said chapels a territorial district, and to erect such districts into separate parishes *quoad sacra*, and to disjoin the same *quoad sacra* from the parishes whereof they at present form parts; and also to take the necessary measures for selecting and ordaining, according to the rules of the Church, for each of the said districts so to be erected, a body of elders, who, with the said ministers respectively, may exercise sessional jurisdiction within the same.' (!)

Your Lordship is well aware of the provision made by Parliamentary enactment for the mode of establishing additional parishes in Scotland, by a regular process before the Court of Teinds, (the Court of Session), in which all parties interested must be called,—heritors, &c. The consent of a certain proportion of the heritors is required before so great a change can be made as the creation of a new parish implies. A new parish may thus be created by the regular form of proceeding which has

been provided for attaining that object. The minister of a parish so erected will *then* become one of 'the parish ministers of this Church.'

No doubt, in defence of this most unconstitutional and unexampled proceeding on the part of the General Assembly, it is said that these parishes are created only *quoad sacra*, not *quoad omnia*, and that they *are not in the eye of law proper parishes. That is the defence stated for the measure.* But if the parishes are not, as *it is not pretended that they are, regular and proper parishes in the eye of the law,*—then what a palpable and extraordinary assumption of power to make *all these ministers at once*, by the *act of the Assembly itself, members of Church Courts*, and to give to their Sessions the ecclesiastical authority and power of discipline of Kirk-Sessions, according to law, in these districts. The Church, by its own act, gives to the ministers the *status and powers and rights of the regular parochial clergy* of Scotland,—gives them *voice and power of decision* in the government of the Established Church,—enables these parties to decide on the qualifications of presentees, and in the settlement of the proper parochial clergy. The Church increases by them the component members of each Presbytery, and the total numbers of the General Assembly itself,—and introduces into that Supreme Church Court individuals who are not parochial clergymen.

To your Lordship, I need not enlarge on the illegality of such a proceeding. The Established Church, whose Church Courts and Assemblies are composed of the clergy and of elders *from the parishes created by law*, (and the law knows of no other parishes), and whose government, by these courts, is fixed by statute, chooses to establish a sort of extraordinary nondescript parishes, and makes, by its own authority, the ministers of these, and elders from the same, constituted members of these Church Courts.

I may, in passing, observe how flimsy is the pretext, that because these parishes were erected *quoad sacra*, therefore there was no interference with civil rights or interests.

The Presbyteries, as your Lordship is aware, have *civil* jurisdiction in several important matters. They can decide on the propriety of repairing or rebuilding both churches and clergymen's houses, and give decree against the proprietors for the amount,—their decision being subject to the review of the Court of Session. Yet into Courts possessing and exercising such powers, the General Assembly took upon itself, by this strange proceeding, to intrude a description of persons, not parochial clergymen in any proper sense of the term, and who have no right whatever to sit in these Courts under the law and constitution of the country.

By the decree of the Church, the proper clergyman of the whole parish is no longer the clergyman of the part erected into this new parish. The parties who live in it, (proprietors, it may be, in the legal parish,) cannot require, though members of the Establishment, the services of the only parish minister known to the law, to baptize, marry, attend funerals, catechise, or visit the sick and dying. He must have the leave of the new minister. They may continue to attend the

old parish Church, in which they may have right to a portion of the area for themselves and those living on their property: But the minister cannot attend them. He is not their minister by the law and practice of the Church. He cannot enter that portion of the original parish for pastoral duty without the leave and knowledge of the new minister: And the people have no right to require his services under the law of the Church, although they have, by the law of the land, the same right to the regular performance and benefit of these services as before. There are many other interests which may be interfered with. As members of the Establishment, the parishioners are subjected to the discipline of the new minister, and of a Session of which he is the head, and withdrawn from the discipline and charge of the minister and kirk-session of the parish.

Is this no interference with the rights and interests of the subjects of the kingdom, who are entitled to the services, and to be under the pastoral care of the parochial clergyman, whom alone the law recognizes as the minister of the parish?

The government and discipline of the Established Church is declared by statute to be in Kirk-Sessions, Presbyteries, &c. The discipline of the Church is one of its most important and valuable features. Yet this measure withdraws from the jurisdiction of the only Session known to law, the district which may be assigned to this new Church or Chapel, and subjects the proprietors and inhabitants of this district to 'the Sessional Jurisdiction within the same,' of this new Session. Now, I put to your Lordship, whether your experience furnishes you with another instance in modern times of similar usurpation of power, or with any such extraordinary subversion of all the limits by which the duties of the different Bodies in the State are marked out and defined.

The original incumbent dies. The patron presents to the original benefice. That remains unaltered by law. The deed of presentation, and the right under which it is issued, are of the same force as before. The Presbytery receives, admits, and inducts the presentee—to what? Why, beyond a doubt, to the original benefice; and yet a great portion of that parish has been erected by the Church into another *parish quoad sacra*.

The Court of Teinds has power to disjoin, *quoad sacra*, a part of one parish, and to annex it to another. The legal character of the benefice is then to that extent altered. But the portion so annexed is added *quoad sacra* to another proper parish.

But this scheme of the Assembly has introduced another novelty—the erection of entire *parishes quoad sacra*, (not permanently either, it may be), and then gives to the minister of such parish (an institution perfectly unknown in the law), the rights, powers, and status of a parish minister. The very phraseology of the act of Assembly sufficiently marks the irregularity of the procedure.

For a succession of clergymen at such chapels there is no provision. If the parties, upon the death of the first incumbent, are not disposed any longer to pay a successor, then the charge and parish fall, and the original parish minister comes forth again as the minister of the whole

original parish. Yet in the meantime, the anomalous personage is invested with the rights and character and powers of a member of the Church Courts of an Established Church, the government of which is fixed by statute, and vested in the ministers and elders of the *legal* parishes of the kingdom and the Courts which they compose.

In this, there is a *practical* proof of the consequences which follow from the notions of Independent Jurisdiction, which have been lately put forth by the Church, and of the progress of ecclesiastical usurpation, when once commenced, on the part of an Establishment.

The consequences of this measure were immediate and most marked.

The clergymen of these chapels and additional Churches are often recommended to them by some of the leading men in the Church,—are elected by the seat-holders,—and naturally become the advocates of that mode of nomination, and the fierce antagonists of patronage. Their situations are in every respect greatly inferior in point of emolument and other advantages to the parochial clergy. Their status carries with it less weight in public estimation,—for they are not the legal parochial clergymen, even of the districts in which the Church has declared that they are to *act quoad sacra* as such. Their object is to be removed to parochial charges. Celebrity in the provincial Church Courts, is always one method by which to obtain a name in the Scotch Church,—and now more than ever. Vehement harangues (in the style of those I have quoted) for the cause of the Church, the rights of the people, &c. &c., afford excellent topics for the display of popular talent. The zealous churchman, it is thought, must be a good preacher. His name attracts attention. Some of the town corporations are likely to choose him as a conspicuous person, who may be expected to get the seats of the church well let. A patron, desirous to please, and knowing how little of either power or responsibility is left with him by the Veto, may save himself the trouble of inquiring, by taking one whom he hears so much talked of. Or when the *proper parish* church falls vacant, the clergyman of this New Church hopes that, by the name he has acquired, it may appear to come to him as matter of right. Neither the patron nor the parish may much wish him. But he is a leading man in the Presbytery,—has acquired a degree of celebrity in the district,—not unlikely the seat-holders in the chapel may desire to exercise of new their right to elect, and to make a change—they earnestly recommend him, knowing that they are to please themselves if he gets the parish church; or that if their next choice disappoints them, they can still go to the parochial church, which is probably just as near as the chapel.

All these circumstances combine to make these new ministers most active members of Church Courts, and to induce them to take the line in which they are to acquire most notoriety.

The sudden influx of these new ministers into the Church Courts and the General Assembly, had a most marked effect in influencing and deciding the tone and temper of all the future Church proceedings. I doubt not that the promoters of the measure confidently relied on this result.

In order to see how immediately such a measure told on the composition of the General Assembly, it is only necessary to recollect that each Presbytery returns a certain quota of ministers and elders to the Assembly, varying with the total numbers of the Presbytery. Two or three Presbyteries have been divided of late years, which made a slight addition to the numbers of representatives to the Assembly; but the rapid increase has arisen (with that unimportant exception) from the addition of Chapel Ministers, and those of the Parliamentary Churches, in a similar way to Presbyteries. In 1832, the actual number of members returned to the General Assembly was, I understand, about 350: If all the Presbyteries and Burghs had sent representatives, the number would have been 366. In 1833, the number returned was above 400.

In proportion as the number of additional chapels throughout the country shall be built in the progress of Church Extension, each of these chapels will be converted into this new sort of parish,—their ministers become members of Presbyteries, and so the members of a great many Presbyteries which were formerly composed of few parishes, are suddenly swelled into very large Presbyteries, and the number of representatives will go on increasing very rapidly. The last General Assembly made a change calculated to increase the numbers still more,—for it removed, to a certain extent, the restriction on the total number of ministers or elders, which an act of Assembly in 1712 had established, and allowed numerous Presbyteries to send,—one class, one additional clerical and one lay member,—another class, two additional members of each description. And the act further pointed to the division of some of the larger Presbyteries, each of which then will return separately representatives to the General Assembly.

To illustrate the working of those changes in the numbers of Presbyteries and of the General Assembly, I may mention, I believe on accurate data, furnished from the best informed quarter, that the increase of the number of representatives sent to the General Assembly by the Presbyteries in the Synod of Glasgow and Ayr since 1834, amounted in 1839 to 14 members (9 ministers and 5 elders). In 1840 there will be at least 3 additional ministers and 2 elders,—or an addition of 19 members from one Synod.

From the Glasgow Presbytery, the members sent to the General Assembly in 1840, will be 10 ministers and 5 elders (instead of 4 ministers and 2 elders *six* years ago), and from Edinburgh there will also be 10 ministers and 5 elders, instead of (at the same period) 6 ministers and 3 elders,—so that, from these two Presbyteries, the addition will be 10 ministers and 5 elders, exactly double the former number.

In 1839, Edinburgh had 8 ministers and 4 elders, and Glasgow 8 ministers and 4 elders, but the former Acts of Assembly did not *admit* of a larger representation than this.

Dundee had formerly 3 ministers and 1 elder in the Assembly,
has now 5 ministers and 2 elders.

Perth had 4 ministers and 2 elders,
 has now 5 ministers and 2 elders;
 next year will probably have 6 ministers and 3 elders.
 Aberdeen had formerly 4 ministers and 2 elders,
 has now 6 ministers and 3 elders;
 will be entitled to have, in 1840, 8 ministers and 4 elders.
 These instances will shew how this system operates.

I need not point out how this gradual increase, going on each year so long as any additional churches shall be built, in the members of the Assembly (previously too numerous for such a Body), will tend to render it less fit for the great purposes of solemn, grave, and dispassionate deliberation on those subjects which come before a religious Body, and will introduce into the Superior Church Court more of those elements of a popular Assembly, in proportion to the prevalence of which it will possess practically less of the character which a Church Court ought to exhibit.

Thus, the usurpation of power in which this measure originated, both illustrates practically, the extensive changes in the state of the Church and of society, which the claim for the independent jurisdiction of the Church may speedily produce; and the effect again, of the changes so brought about, in strengthening the power of the Church, and encouraging the spread of principles in their results most prejudicial to the interests of the community.

The manner in which this measure has been hurried on, exhibits features more distressing as regards the character and dignity of the Establishment, and more prejudicial to the authority of the established clergy.

So long as these extra places of worship remained merely chapels in the estimation of the Church, they were known to be dependent on contingent and voluntary funds; but then, on the other hand, the clergymen had not the rank, duties, status, powers, or functions, of the parochial clergy.

But from the anxiety, on the one hand, to erect as many new Churches as possible,—from the disappointment in not getting aid from Government, many of the new Churches have been built when funds were not raised, and cannot be raised, sufficient at once for the expense of the Church, and the maintenance of the minister: Many of these are greatly in debt, (exactly as the chapels of the Dissenters were—a point which many of the clergy were so anxious to prove before the Church Commission); and sermons have actually been advertised to be preached, and extra collections to be made at the doors of some of these new Churches for their support—for the support of what are declared to be part of the parochial establishment: While the ordinary collections at the Church doors, and the seat-rents, have been relied upon for maintaining them, as part of the regular funds for that purpose.*

* The subsistence and continuance of these new parishes *quoad sacra*,

Another and most extraordinary measure was adopted by the last General Assembly, which will affect most materially the character and composition of the Assembly, and may add to the numbers of Presbyteries, and of the representatives of the Assembly.

The General Assembly, by a sweeping enactment, resolved to admit all the ministers, sessions, and congregations of the Seceders belonging to the Associate Synod, at once into the Church, provided they signed the requisite formula, on the same footing as the Chapels of the Establishment, and directed the Presbyteries to allot districts to such Seceding Chapels as *parishes quoad sacra*, and to admit their ministers at once into the Church Courts, as *parish ministers of the land*.

But the Church had *previously yielded to certain stipulations* which these parties practically required.

The whole procedure is of a character quite unexampled, and so high was the Church ready to bid for this class of Seceders, that they have conceded to them the right, consistently with their recognized duty as

depends, in truth, on the Voluntary principle. It is very well to have *chapels* in aid of the Establishment upon that footing: But it is a new feature in an Established Church to have the existence of parishes, and the parish ministers, dependent upon such support. Dr. Chalmers, in the Tract to which I have alluded, represents the collections at the Church doors to be essential for these new Churches. He says, the decision of the Court of Session is a *death-blow* to Church Extension, and to the union of the Seceders with the Church,—that it will bring Church Extension to a *dead stand*. I may safely assume, from this statement (taking it with due allowance for the strength of the expression employed), that in a great many cases these new Churches are built without adequate funds, even for the expense of the building,—indeed, the regulations of the General Assembly do not require the whole sum to be provided, and count upon the collections at the Church doors and the seat-rents. Hence, we have, according to Dr. Chalmers's own statement, a number of parishes, the ministers of which are introduced into Church courts, while *the existence of such parishes is dependent upon the payment of debt*: nay, the *contraction of debt is the mode of creating the parish*.

Then, in proportion as the 'funds of the Church' (this is the expression employed in the regulations to describe the means for providing for debt and the support of the ministers,) are increased, both by seat-rents and collections, the surplus, after paying the interest of debt, or paying it off, would increase the provision for the minister. So that these parish ministers are now more or less dependent in truth upon Voluntary aid,—though the individual has, it is true, a *certain stipend* secured to him by bond from private parties,—in itself a most unfortunate provision for the maintenance of a parish minister, with *legal* duties to perform, and a place in Church courts. Dr. Chalmers wished to dispense even with the necessity of a bond to the particular individual; but to this extreme the Church has refused to go.

members of the Church which they were to join, to endeavour, as a matter of conscience and of religious duty, to effect *any* alteration in its *constitution* which they desire to accomplish.

Any seceding minister, and congregation adhering to him, might previously have made an application, and been received into the Establishment (as has been before done) as a chapel connected therewith, when the attainments of the minister were satisfactorily ascertained, and the principles of himself and of his congregation proved to be those in all respects of the Establishment. There was, therefore, no necessity for any enactment on the subject. In such cases, the duty of the Establishment was to receive those who might desire to join, but to concede nothing—to enter into no treaty—to make no compromise by which those, who could not without stipulations enter the Establishment, should thereby, and on their understanding of such compromise, be enabled to do so. This is the *duty* which an *Establishment* owes to the *State*.

For the first time, the Church of Scotland has entered into a CAPITULATION with a body of Dissenters, in regard to the terms *stipulated by the latter*, as the conditions on which they were willing to enter the Establishment.

The terms of the Act of Assembly are as remarkable as the fact of such a compromise :

‘ Whereas proposals have been made by the Associate Synod for a re-union with the Church of Scotland, and a considerable number of overtures have been sent at the same time to the General Assembly from the Synods and Presbyteries of the Church favourable to that object ; and it has been ascertained, by a Committee of the General Assembly, that the course of study required for a long time past of Students in Divinity in connection with said Synod is quite satisfactory, and that their Ministers and Elders do firmly adhere to the Westminster Confession of Faith, the Larger and Shorter Catechisms, and *OTHER standards* of our Church ; and whereas the Members of the Associate Synod do heartily concur with us in holding the great principle of an Ecclesiastical Establishment, and the duty of acknowledging God in our national as well as our individual capacity ; and *we*, on the *other* hand, do heartily concur with the Members of the Associate Synod in confessing the *great obligations under which we lie to our forefathers in the year 1638, and several years of that century immediately following*, and the *duty*, in particular circumstances, of *uniting together in public solemn engagement* in defence of the Church, and its doctrine, discipline, and form of worship and government ; and whereas our brethren of the Associate Synod have declared their willingness, in the event of a re-union, to submit to all the laws and judicatories of this Church, *RESERVING only to themselves the right which the members of the Established Church enjoy of endeavouring to correct in a lawful manner what may appear to THEM to be faulty in its CONSTITUTION and government* :

‘ The General Assembly, with the consent of the Presbyteries of this Church, enact and ordain, that all the Ministers of the Associate

‘ Synod, and their congregations, in Scotland, desirous of being admitted into connection and full communion with the Church of Scotland, be received accordingly, and that the following rules be strictly observed by the Presbyteries of this Church relative to this subject.’

The Presbyteries are to take measures for Establishing these Dissenting chapels as *churches*, with parishes *quoad sacra*, and *introducing their ministers and elders into the Church Courts*.

The following are among the regulations contained in the Act of Assembly :—

‘ 2. On the reception of a Minister and Congregation of the Associate Synod into connection with a Presbytery of this Church, the Managers of said Congregation, or the Kirk-Session and Deacons, if Managers, shall forthwith take the steps necessary for procuring a constitution for the newly admitted Church, and having a territorial district assigned thereto.

‘ 3. Every Minister of the Associate Synod, at his admission as a Member of Presbytery, and every ruling Elder of said Synod, before taking his seat as a Member of Presbytery or Synod, or General Assembly, shall subscribe the Westminster Confession of Faith, and the Formula of the Church of Scotland, and shall enjoy all the *rights and privileges of Ordained Ministers* and Elders of the Church of Scotland.

‘ 4. The integrity of the Kirk-Sessions and *existing congregations* of the Associate Synod admitted into the Church of Scotland, and the *right* of said Kirk-Sessions to grant sealing ordinances to the present members of their said congregations, *though not residing within the bounds of the parish which may be allotted to them, shall be distinctly and practically recognised by the other Kirk-Sessions and the Presbyteries of this Church*,—provided always that this provision shall in no respect apply to non-residents who are not, at the date of this Act, members of the existing congregations as aforesaid.’

Another Regulation provides that the Church is to take no cognizance of the mode in which any of the incumbents of these Seceding chapels are now maintained and provided for, and not to require any other or different provision from that on which, as ministers of Dissenting congregations, they had been dependent. The risk is obvious that the congregations or subscribers of bonds, guaranteeing perhaps only a deficiency in seat-rents or collections, would not have acquiesced in any change, much less in any stricter and firmer hold on these precarious sources of payment to the ministers.

The express declaration in the act of Assembly, as to the acts of the Church in 1638, and the years immediately following, must of course mean something different from what has been hitherto the understanding and opinions of the Church as to that period,—else there was hitherto no difference on *that*. which we know did form a great point of difference. I think, in the language and opinions of Mr. Candlish and the other leading members of the Church Committee, which I

have quoted, we can now understand how it is that the Seceders have become satisfied with the views of those with whom they have united,—for the very acts of that period are declared now to form the exemplar to which the Church of Scotland ought to be moulded, and according to which the unworthy and defective settlement of 1688 ought to be reformed and altered. If there is *not practical meaning in this declaration*, it was not worthy of an Establishment. The reference to the *other* standards of the Church is intended, I presume, to allude to the First and Second Book of Discipline, and any authorities which parties choose to hold to be standards of the Church.

What is the object of the allusion to the *Covenants* of the period of 1638 and 1643? Is it in that way to allow the Seceders to hold that these form part of the Standards, in their understanding, of the Church of Scotland? The Body for whose satisfaction these declarations by the Church were required, in order to make the Establishment such as they desired, must have attached practical importance to them—must have understood that important points of difference were thereby removed—and that their views on these matters were so far adopted and sanctioned, as to have enabled them, retaining their opinions and views (for such, as will immediately be seen, is *their* solemn declaration to the Church) to enter this *now* reformed Church. What these views are, I shall presently shew.

Then, what is the meaning of admitting a reservation, if it is only what all members of the Establishment possess, of a right to endeavour to correct what may appear to these new adherents of the Church of Scotland to be faulty in its *constitution*?

This is a singular concession for an Established Church to make by public declaration, as part of a capitulation for admission into the Church.

Among the questions put to a minister before ordination, he is asked, ‘Are you persuaded that the Presbyterian government and discipline of this Church are founded on the Word of God, and agreeable thereto; and do you promise to submit to the said government and discipline, and to concur with the same, and never to endeavour, directly or indirectly, the prejudice or subversion thereof, but to the utmost of your power in your station to maintain, support, and defend the said discipline and Presbyterian government by Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies, during all the days of your life?’

The formula,—which must by statute be signed,—goes even farther in the part which I have not previously quoted:—The first part of it, it will be remembered, refers expressly to the statute passed at the Revolution, as establishing the Confession of Faith of the Church—and then it proceeds:—

‘As likewise I do own the purity of worship presently authorised and practised in this Church; and also the *Presbyterian government and discipline now* so happily established therein; which doctrine, worship, and Church government, I am persuaded, are founded upon the word of God, and agreeable thereto. And *I promise that*, through the grace

‘ of God; I *shall firmly and constantly adhere to the same*; and to the utmost of my power shall, in my station, assert, maintain, and defend the said doctrine, worship, discipline, and government of this Church, by Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies; and that I shall, in my practice, conform to the said worship, and submit to the said discipline and government, and never endeavour, directly or indirectly, the prejudice or subversion of the same. And I promise that I shall follow *no divisive courses from the present establishment* of this Church; renouncing all doctrines, tenets, and opinions whatsoever, contrary to, or inconsistent with, the said doctrine, worship, discipline, and government of this Church.’

Could these questions, then, not be answered,—could this formula not be signed conscientiously by the Seceders, without this solemn declaration and acknowledgment by the Establishment of the terms and reservations, under which it might be taken and signed by those who may intend, and are thus allowed, to endeavour to alter the constitution and government of the Church to which, in truth, only nominal adherence is required by this act of Assembly

This is an extraordinary fact in the history of any Established Church. How it is reconciled with the express declaration and enactment in the statute 1690, c. 22, already quoted, as to the subscription required from ‘ every minister and preacher within this Church admitted or continued for hereafter,’ it is difficult to understand.

This measure appears to illustrate so forcibly the change which is going on in the policy of the Church of Scotland, that I must introduce a further explanation as to the grounds on which this union has taken place.

The Seceders, in their Communication to the General Assembly, unequivocally asserted their own opinions, and the concessions which they desired the Established Church to make to them. In a Letter to the Moderator of the General Assembly of 1835, they stated, ‘ It is with no pretensions to immaculate purity on our own part, nor, we trust, with a blind partiality for the policy of our ancestors, that we avow that our *opinion of the validity of the original grounds of the Secession remains unchanged*; and, while we are most sensible, that, from the time of the division referred to, there have ever been many within the walls of the Establishment, whose zeal and piety have afforded indubitable evidence of the presence of the Spirit of God with the Church from which our forefathers seceded, still we believe that those *grievances* which compelled their separation were of serious magnitude, and have proved *extensively injurious*, in their long continuance, to the *interests of vital godliness*, and the *success of the Gospel* within its pale. It is with no air of triumph,—it is with no indifference to the great evils attendant on division,—that we declare that we look back with reverence and gratitude to the faithful *conductings* of the founders of the Secession, and that we express our persuasion that their efforts to *preserve the truth*, were *not a little countenanced of God*, and, as followed up by the imperfect endeavours of those who have since rallied round the standard they lifted,

‘ have been of no inconsiderable advantage to the common cause of religion in our native land.’

They explained that to the principle of an Establishment they had never objected, and referred to the following well known declaration of the ministers who originally seceded, as proving both that they acknowledged the principle, and also what the Establishment was which they regarded as the true exemplar of the Presbyterian Church. Their well known words were,—‘ We appeal to the first free, faithful, and ‘ Reforming General Assembly of the Church of Scotland,’ i. e. the Assembly 1638.

The Associate Synod then set forth the views with which they would enter an Establishment. ‘ As having avowed, throughout a century, ‘ our desire to see the Church of Scotland occupying again the ground ‘ which it held in the reforming period from 1638 to 1650, and our ‘ adherence to the Covenants, by which that reformation in Church and ‘ State was promoted and ratified, we should earnestly desire to aid in ‘ promoting a revival of that work.’

The purpose of extensive change in the constitution of the Church, and of regaining the power exercised by the Church at that period is not here disguised. All the covenants are here referred to as equally important. Indeed the one for abolishing Episcopacy in England is that to which the Seceders attach the *greatest* importance. After a declaration of their hostility to patronage, and that a more effectual measure than the Veto must in their opinion be devised, they then proceeded to explain their principal ground for proposing union with the Church, in the following significant passage as to *ministerial liberty*, as it is termed, or in other words, the rights of ministers of an Establishment, while adhering to the same, to prosecute any changes they choose in its constitution, and to obey or not, acts of Assembly, so far as their conscience permits. ‘ Our principal encouragement to treat ‘ for union, lies in our perception of the growing spirit of liberty ‘ in the judicatories of the Establishment; being persuaded that the ‘ various articles of remonstrance, which afterwards became on the part ‘ of the Seceders grounds of separation, were not so much the causes ‘ of separation considered abstractly, as connected with the denial of ‘ their right to contend constitutionally and freely for a redress of their ‘ grievances. Having reason to believe that just freedom would now ‘ be granted,—a freedom not, of course, undefined, but regulated by ‘ the spirit and principles of Presbyterian Church government, we are ‘ willing, inasmuch as this would go far to put us in the position which ‘ we understand the first Seceders to have claimed, to consider in the ‘ spirit of meekness, whether, consistently with our adherence to their ‘ Testimony, we might henceforth prosecute OUR DESIGNS in immediate ‘ alliance with the numerous friends of the truth and of vital godliness, ‘ whom we delight to recognise as already enlisted under your banners.’

In the foregoing communication to the General Assembly, the Associate Synod of Seceders very distinctly announce that they adhere to the views of the Original Seceders on the points of original difference. And it is necessary shortly to state one or two of these points, not

only as originally stated, but as explained by the Associate Synod about the time of this communication to the General Assembly:—For taken in connection with this declaration of the Assembly, they bear materially on the views at present promulgated by the Church, and the ultimate objects of reformation which are actuating the leaders of the present measures.

The original Act, Testimony, and Declaration of the Seceders, (edit. 1736), declared that the sins and defection from the truth, on the part of the Church of Scotland and of the State, began immediately after the Revolution; that the Church sinned in going back to 1592, and not adopting and standing by the Covenants* from 1638 to 1650: denounced as sinful defections from the truth, that the Act of Parliament rescinding these covenants was left unrepealed; that Prelacy had not been condemned as against the Word of God; that Patronage had not been condemned and uprooted as against the Word of God; that the Church at the Revolution did not assert the 'divine right of Presbytery, and the indivisible power of the Church' which are two special branches of Christ's glorious headship in and 'over the same; "nor has the obligation of our Covenants, National "and Solemn League, and their *binding force upon posterity*, ever been "expressly asserted by any particular act of Assembly since the Revolution:" That the treaty of Union, which acknowledged the English hierarchy, was contrary to the covenant union with England in 1643, by which the work of Reformation ought to have been carried on, and which the Church and people of Scotland were still bound, by a solemn vow to God, binding on the nation, to prosecute and advance: That, in this respect, 'the foresaid union may justly be looked upon 'as contrary to and condemned by the Word of God:' That the toleration of Episcopalians in Scotland, 'and all such tolerations, were 'contrary to the Word of God.'

The doctrine as to the Solemn League and Covenant is a very remarkable one. It is made by them a point of religious faith; and in its practical consequences, (for it is one of direct practical effect), would, if adopted, array the whole religious community of Scotland against the Church of England. The exact meaning and practical consequences of these tenets, I prefer taking from an address by the Associate Synod to their congregations so late as September 1834, which both shews in the most authoritative manner, that the views of the Act and Testimony are still retained, and because it is drawn up in calm and measured language, and cannot be turned aside as the intemperate and exaggerated expressions of individuals. In that address the ministers of the Synod declare—"Our objections to the Established Church are not confined to her administration. We cannot unreservedly approve of 'her constitution as it was established at the Revolution.' Some of these defects are then mentioned. It is said that 'the first Seceders in their 'Judicial Testimony and Declaration of Principles, specified several

* I find in the works of the Seceders, the very language and opinions which are contained in the passages already quoted from Mr. Candlish.

‘ important points with respect to which that settlement involved a *sinful departure* from a *previous* settlement of religion in Scotland, which *they distinctly held forth as exhibiting the model, in point of Scriptural purity and order, of that reformed constitution to which they sought by their contendings to bring back the Church of their native land. This Synod occupy the same ground with the first Seceders.* They are aware that the Established Church has it not in its power to correct all the evils of the Revolution settlement which they feel themselves bound to point out ; but they cannot *warrantably quit their position of Secession, until the Established Church shew a disposition to return to that reformed constitution.*’

The address then goes on to say—‘ The *Revolution settlement came far short of embracing the former attainments of the Church and nation in religious reformation.* In general its grand defect lay in wholly overlooking the *civil and ecclesiastical reform* attained to between 1638 and 1650, generally termed the period of the Second Reformation. The Scottish Parliament abolished Prelacy indeed, considered as contrary to the inclinations of the generality of the people of Scotland, but *not as contrary to the Word of God, and as abjured by our Covenants.*’ They complain that the Act of Parliament rescinding the Solemn League and Covenant, had not itself been repealed. They complain that the national adoption of the Confession of Faith was the act of the State itself, and not by an acknowledgment of the *intrinsic right* of the Church.

Then, in full explanation of the important doctrines involved in the tenet, that the League and Covenant being a solemn oath taken by the nation to God, even a covenant with Him, is of perpetual obligation, binding both nations to the extirpation of prelacy, and the continued neglect of which the justice of God must punish,—they go on to say,—‘ This Synod have always condemned that article in the treaty of union between England and Scotland, by which the Scottish nation gave its consent to the perpetuating of the hierarchy in England, as inconsistent with a previous treaty, *SACREDLY ratified*, which provided for “ the Reformation of religion in the kingdoms of England and Ireland, in doctrine, worship, discipline, and government, according to the Word of God, and the example of the best reformed Churches,” and for the complete abolition of prelacy.* Then, after some other remarks as to the way in which the Scottish Church has gradually lost ‘ all proper sense of the evils of prelacy,’ they continue,—‘ They look on the refusal of the English Church to reform, and the obstinacy with which she continues to cling to flagrant abuses, as one great cause of the critical state into which our Ecclesiastical Establishments are brought.’ Again—‘ As it is, the Synod

* It is enough for the purpose of my explanation, that this is the interpretation put by the Synod on this treaty. I need not enter into the object which Vane had in view, in the general terms which he so skilfully introduced, as the great obstacle to this most desirable object.

‘ must condemn the constitution of the English Establishment, as decidedly Erastian, in consequence of the power granted to the king as the temporal head of the Church, and supreme judge in all causes ecclesiastical. The civil places and power of Churchmen, and in particular, the *appointment of the bishops as a constituent portion of one of the estates in Parliament*, under the denomination of Lords Spiritual, we consider to be as detrimental to the interests of religion, as it is inconsistent with the nature of Christ’s Kingdom, which is “not of this world.” The whole frame of the hierarchy is without the shadow of foundation in Scripture; a corruption of the primitive order instituted by Christ in his church, which originated in human invention, and was carried to perfection under antichrist; a government in which the discipline and laws of Christ’s house, for maintaining truth and purity, are deprived of all force; and which, therefore, may be abolished without endangering the existence or marring the beauty and efficiency of the English Establishment.’

And in another passage they say,—‘ Our reforming ancestors considered that our national covenants, having a *permanent object, must be of perpetual obligation on all ranks in these lands to the latest posterity*; and many of them sealed their testimony for this sublime truth with their blood. The same doctrine is held by this Synod; and so long as this doctrine was held by Seceders in general, they never once dreamed of waging war against the principle of Establishments. But how much soever the ministers of the present Establishment disagree with the advocates of the ‘Voluntary’ system in other respects, the most of them seem to go hand in hand with them, in treating with neglect, if not with contempt, these national deeds. We cannot avoid declaring, that they have in so far abandoned one of their principal strongholds as a national Church. They hold their temporal emoluments by a national grant made to them at the time of the reformation; but can they with a good grace plead the permanent obligation of the national faith pledged in that grant, so long as they overlook or deny the permanent obligation of our national engagements in support of the reformation itself? If the nation has proved unfaithful in the one case, and they have kept silence, without testifying against breach of covenant as a great national sin, can they reasonably expect that it will prove faithful in the other? By abandoning the reformation as a covenanted work, and dropping from her profession the continual obligation of these national deeds, the present Church of Scotland has done more to pave the way for her own ruin, than all that has been done, or could have been done, by “Voluntary Associations,” had she pursued a different course. The national Covenant, as renewed in 1638, and the solemn League and Covenant, though condemned by the law of the State, are approved by laws of the Church, which have never been set aside by any ecclesiastical authority; but these have long been a dead letter; and a party who refuses to renew a lawful contract which he has failed to perform, is viewed, in the sight both of God and man, as disowning it, and setting its obligation at naught.’

These are the opinions of the Synod of this portion of the Secession in September 1834.

As might be expected, the Synod further declare, that the resolution adopting the Veto law was ‘very discouraging, and that they must re-assert the ancient doctrine of the Scottish Church, that the order of election, according to the Word of God, “cannot stand with patron-ages and presentation to benefices,” which, as the barbarous names themselves denote, “flowed from the Pope and the corruptions of the canon law only.”’

Another important tenet most keenly maintained by the Original Seceders, and to which at present they attach so much importance, that it is specially noticed in the Letter to the Moderator of the General Assembly, in a passage I have already quoted, was the doctrine of *Ministerial Liberty*,—that is, that individual ministers might obey acts of Assembly, and act as a member of Presbytery in his ministerial character inconsistent with them, when against his conscience. The principle, indeed, formed the cause of the Secession,—for if this liberty had been granted to Erskine, he had no intention of leaving the Church.

That the declaration in the act of Assembly, as to the right reserved to the Seceders, is really intended to concede to these a license, which, without it, they could not, consistently with the act of adherence, have possessed, cannot be doubted,—and unless they have departed, since 1834, greatly from their original opinions, it seems plain to any one acquainted with the results of such coalitions and concessions in similar instances, that this measure will both be productive of great divisions in the Church Courts, and destructive of unity of doctrine.

Adhering to the principle of establishment, the Synod, in the address referred to, declared they were ready to return to the Church according to the appeal of the first Seceders to ‘the first free, faithful, and reforming General Assembly of the Church of Scotland,’—as soon as ‘such an Assembly has taken up the appeal, and answered it in the way of removing the grounds of our Secession. Meanwhile a sense of the obligations we lie from the Word of God, and the solemn obligations we have contracted, requires us to remain in a state of separation.’ In a note they explain why the General Assembly of 1834 could not be called a free, faithful, and reforming Assembly, and refers to the explanations of the Original Seceders. In addressing their congregations, their cause is described as that of ‘covenanted uniformity,’ in special reference to the obligations and objects of the covenant, in order to bring about uniformity to Presbytery throughout the empire.

Your Lordship will easily understand then, the meaning and objects of the declarations by the Assembly in 1839, which have proved so satisfactory as to enable the Seceders to join, in *order to prosecute within the Church* the objects, which they hold to be matter of religious faith and covenanted duty.

In the introduction of this active and persevering class into the Church, it is impossible not to see the sure causes both of further pretensions to ecclesiastical power, and of measures most detrimental to the principles of toleration, and the religious peace of the kingdom. Every effort will be made to correct the ‘sinful’ departure from the system esta-

blished between 1638 and 1650, and bring about the uniformity which is marred by the unscriptural hierarchy of England still maintained against the Word of God, &c. in violation of sacred treaties.

No doubt the attempt may be idle, with reference to the prospects of ultimate success. But such views, so far countenanced, I fear, by this declaration of the Assembly, and at all events urgently inculcated now by a recognised portion of the Church of Scotland, will tend to give greater method and authority to many Bodies of Dissenters in England, and may create distrust between the Establishments when they ought to be most united.

But without dwelling on these points,—however important for the consideration of the Government and the Legislature,—it is more within the immediate object of this part of my Letter to request the attention of your Lordship to the three regulations which I have quoted from this act of Assembly.

These Seceding clergymen are at once admitted, on their application, and in the forms pointed out, to be members of Church Courts. A district is to be assigned to them, and the pastoral charge of the people living in that district is thenceforth under the charge of these individuals, as the *only parish minister whom the Church recognizes as in the cure of souls in that district, and by whom discipline may be exercised*. There are many who will feel this to be no inconsiderable encroachment on their rights as subjects.

But the proceeding is still more extraordinary. The discipline and authority and jurisdiction and pastoral superintendence of the minister and session respectively of their congregations, is recognised *over individuals who may reside in other parishes*—not only in other parishes *quoad sacra*, but may reside in other legal parishes than that in which this church and minister are placed. That is to say,—one of these chapels is in the parish of St. Cuthbert's,—a district is allotted to it which may embrace part of it or parts of other parishes—but still a distinct district: Individuals have belonged to that congregation who lived in other parishes, *which are not included in that district*;—say in the parish of Cramond, or Corstorphine, or Leith. These individuals, of course, may resort to their old church. The Church would not have prevented them. But the act of Assembly goes much further. The *integrity* of the *kirk-session* and *congregation* of the Seceding Chapel is to be recognised in regard to individuals thus living in different parishes; and other Kirk-sessions are to admit the authority and discipline of these new Sessions, out of the *bounds of the district allotted to them by the Church*, over individuals, who, declaring that they belong to the Establishment, are yet to be in a situation and to have privileges which are incompetent and unconstitutional as to all the proper members of the Establishment, and are to be under the ecclesiastical discipline, not of the established minister and session of the district in which they live, (no matter how the district is constituted), but of a minister and session of a different district, which is thus admitted by the Established Church, to act, and to have charge and discipline, within the bounds of another parish. The established minister of the legal parish of Cramond finds that part of his parish-

ioners are under the pastoral care of a minister and the discipline of a session wholly in a different parish. Yet these congregations, sessions, and ministers, are said to form parish churches in the Church of Scotland, and the ministers and sessions to be part of the government of the Church as by law established.

The very first element in the scheme of Presbytery, is in truth to be found in the territorial division of the country into parishes; the exclusive charge of which, so far as the members of the Church is concerned, and indeed all residents also to certain most important effects, is under the minister and session of the bounds—no other minister or session having any concern therein whatever, and the only interference being by the superior court, the Presbytery,—composed of a certain number of these ministers with an elder from each session.

Several ministers of these Seceding congregations have been already admitted into the Church Courts; and it is presumed, from the nature of the preliminary treaty, that all the congregations will be admitted. Not less than forty ministers, and as many elders, may thus be added to Presbyteries. Hence a further and considerable increase may take place in the members of Presbyteries and of representatives to the Assembly.

But a great practical effect must also result from the infusion of the opinions and principles of those who have hitherto been educated, and have maintained themselves in the position of Seceders:—not opposed certainly to the principle of an Establishment, but conscientiously holding that the Constitution and government of the Church of Scotland require to be changed in vital points, in which it was so faulty that they could not in point of religious faith join it. For their satisfaction, and as a concession to them, it was necessary not only to make the declarations as to the more exalted Presbytery of 1638 and of the years which immediately followed it, which I have already quoted, but also to grant the license to agitate and struggle for changes in the constitution and government to which they are nominally to adhere, and which, without that public recognition of such license, according to the sense in which the Seceders may choose to understand it, they could not have conscientiously acknowledged.

These individuals are distinguished for the uncompromising and honourable perseverance with which they have maintained the doctrines which they hold as to the constitution of the Church of Scotland. Their views they have never disguised. They think, I presume, that great steps have been taken by the Church to remedy some of its abuses, but still they enter the Church only under the declaration, (for that is the substance and meaning of it), that her constitution and government are most faulty, and that their intention to endeavour to effect the changes which *they* deem to be material, must be admitted and understood, by public acknowledgment by the Church, *not to be narrowed or excluded by signing its formula, or by their act of adhesion.*

It is in vain to say that all members of the Church have a right to

do so. The Declaration, if it imported only that all members of the Church may contend for the *improvement* of its constitution, would have been no satisfaction to the Associate Synod. It must extend to matters of greater importance, in which the constitution must, as matter of religious opinion, be altered. That is a right which, as *members* of the Establishment, parties have not. As subjects they have. But if they think the constitution of a Church, as settled by law, is so faulty that they must struggle to effect a change *on points which they in CONSCIENCE deem material and sinful*, they are bound to leave the Establishment, whatever efforts for its reformation they may make as subjects. The Seceders felt this deeply and conscientiously. They *REQUIRED the reservation to enable them to sign the formula*, and IT HAS BEEN MADE.

I doubt not that the promoters of this measure calculate on a great practical effect and influence on the proceedings of Church Courts, by the introduction of Seceders of the Associate Synod. And the individual who can doubt of the effects, which the measure will have, must be very imperfectly acquainted with Scotland.

In the year 1833, another measure was carried through, which was intended to pave the way for the introduction of the ministers of Chapels of Ease into the Assembly, and was also a very remarkable instance of the systematic disregard of all the limits of civil and ecclesiastical jurisdictions which has been exhibited of late years in the proceedings of the Church of Scotland.

The 5th Geo. IV. c. 90, which established forty new Churches in the Highlands of Scotland, was passed upon the principle, that, as the endowments which the Government could give to each would be so very small, it was not expedient or wise that those appointed to these Churches should be parochial clergymen, or possess the status of such. With a view to secure that object, the act which directs the Presbytery to allot to them certain districts, declares, that the ministers to be appointed to the Churches are to perform all the duties of a minister of the Church of Scotland, ‘*save and except the right and duty of Church-discipline*,’ and again, in another section, it is provided that all questions are to be decided according to the law of Scotland respecting parochial clergy, ‘*so far as may be consistent with the provisions of this act, and regard being always had to the consideration that the district set apart for the duties of such minister is not disjoined from the parish or parishes to which it belongs, or erected into a separate parish, and that the elders officiating at such place of worship do not, along with such ministers, form any separate and distinct kirk-session, and cannot derive any authority as such from the provisions of this act, but are merely members of the kirk-session or sessions of the parish or parishes in which the district has been set apart, and have no authority or jurisdiction except such as by law belongs to them as members of the same.*’

Notwithstanding this most express Parliamentary condition on the

establishment of these Churches, the endowments of which were bestowed by the public, the General Assembly, in 1833, passed a sweeping declaration, in the following terms:—‘ The General Assembly of the Church of Scotland did, and hereby do enact and declare, That the whole districts in Scotland now, or to be hereafter provided with places of worship and ministers, in terms of the Acts 4th Geo. IV. c. 79, and 5th Geo. IV. c. 90, shall be, and are hereby, from and after this date, *erected into separate parishes quoad sacra*, and to that effect, are hereby declared to be disjoined and separated from the parishes of which they at present constitute a part. And the General Assembly further enact and declare, that all ministers already inducted or settled as ministers within the said districts, or who shall hereafter be inducted and settled in the same, *shall be, and are hereby authorised to exercise and enjoy*, within their respective districts, *the whole powers and privileges now competent to parish ministers of this Church*, and that as fully and freely in every respect, and without molestation or interference, *as if their respective districts had been ordinary parishes*,’ (!!)

‘ and they had been regularly inducted as ministers thereof. Moreover, the General Assembly hereby declares, that the said ministers *are and shall be constituent members of all Presbyteries, Synods, Church Courts, and Judicatories whatsoever*, and shall *enjoy every privilege as fully and freely, and with equal powers, as parish ministers of this Church*; hereby enjoining and requiring all Presbyteries, Synods, Church Courts, and Judicatories, within whose bounds the said Churches are, or shall be situated, to receive and enrol the said ministers as members thereof, and put them in all respects on a footing of Presbyterian equality with the parish ministers of this Church, giving, granting, and committing to the said ministers, the like powers and authority and privileges now pertaining by law to parochial ministers of this Church, within their respective bounds.’

What has been the result? Some of these clergymen then maintained that they were entitled, under the Act of Assembly, to enter the Scheme for a Widows’ Fund, which it is imperative on all parochial ministers to enter. The Court of Session had no difficulty, however, in holding, that they could derive no such right from the Act of Assembly. Other questions have also occurred, both as to these ministers, and the ministers of Chapels, which point out forcibly the very anomalous consequences of the acts of the Church in making them members of Church Courts, and giving them parishes,—and I doubt not that further and more embarrassing questions will still arise.

The Veto act applied to and included all these Parliamentary Churches. Now, the heritors had only a few years before given the ground for the Churches and clergymen’s glebes and gardens, and a variety of accommodations, which the Government required, before they undertook to build the church and manse, and to give a stipend to the clergyman. In allotting and giving up ground for these purposes, the proprietors in the Highlands certainly never contemplated that there was to be such a great and objectionable change introduced as to the appointment of the minis-

ters of these Chapels,—intended for remote Highland districts, in the neighbourhood often of the residences of one or two proprietors,—which they believed were to be on the footing on which the act of Parliament placed them,—for which many of them made very liberal allotments of land in addition to the Government stipend,—but in regard to which, certainly, they do not think that the peace and quiet of their district is to be at all promoted by the strife and dissensions which the Veto will introduce, or their interests in the selection of the clergyman as well consulted, as under the system, in the contemplation of which they had given the necessary ground.

The position of parish ministers into which, contrary to the provisions of the statute giving the endowments, the Church has raised these Parliamentary clergymen, has also in many respects operated by no means favourably on *their* situation in the Church.

V. I have now to request the attention of your Lordship to some of the considerations which affect the question of the propriety or expediency of giving any countenance to the proposal of an Act of Parliament, whether to establish the Veto, or to give the Church general powers to regulate the appointment of ministers.

Many are in the habit of looking to the question of the Veto only with reference to the number of cases of *rejection* which have occurred. There cannot be a greater mistake than to look to that fact as in any degree the measure of its operation. Nay, cases, in which the *dissent* is extensively stated, though short of the majority which is to reject, appear to me to illustrate in a remarkable degree many of the evils attending the system. Neither is it in the fact that *individuals, named by the patron*, may be rejected, that the most important consequences of the measure are to be found. To look to that fact, taken by itself, and in reference merely to the rights of the patron and presentee, is a very narrow view of the measure in question.

I propose to request the attention of your Lordship to more important considerations.

In the *first* instance, I have to request your attention to *two* very important objections, which may be stated separately, as being of an ecclesiastical nature, but involving *practical* consequences of the deepest moment.

1. I advert first, to the grave and serious objection, that the Veto is utterly inconsistent with the proper *authority and duty* of the *Church Courts* in our Presbyterian Church, and subversive of the first principles on which the right government of any Church can be founded, with a view to the interests of religion, and the good of the hearers of the Church.

This is an important objection for the consideration of the Legislature, when required to alter the constitution of the Church, and for the

Government, when asked to sanction such alteration. I do not now allude to the right of patronage as confirmed by statute. But the State has given to or acknowledged in the Church Courts—in Presbyteries—the power and duty of collation. In establishing Presbytery, the State adopted, as one great and important characteristic of that form of Church government, that the Presbyteries should decide on all questions as to the qualifications and fitness of the persons nominated to a cure of souls. Who are to have the right to *nominate* or *present*, whether patrons or people, is one point. But that being decided,—(and the plan of the Veto leaves to patrons the *right* to nominate and present untouched.)—the principle of the constitution of Presbytery as established by law, is, that all matters respecting the religious interests of the parish, connected with the settlement of the person so nominated, and all questions as to his qualifications, shall be decided by the Church Courts, as a part of the government of the Church which the State chose to establish, and to recognize *in the Church*. No matter who selects—no matter who is to present—the *Church* is to decide on the objections of all other parties to that selection. The statutes have made that an inherent part of the duty and power of the Church. To alter the Presbyterian form of Church government on so important a point, is no light matter. I apprehend an immense proportion of the members of the Church of Scotland would hold, that in such alteration the Established Church will receive a most fatal shock. They would look on such an interference on the part of the State as most alarming as a precedent, threatening to destroy the true independence of the Church, and the solidity of its foundation as the Established Church,—and greatly endangering its influence, by destroying, in the estimation of the greater part of the country, its usefulness and most valuable characteristics as an Establishment. I wish I could induce your Lordship and others to peruse, upon this important part of the subject, the report of a speech in the Synod of Aberdeen, by Dr. Mearns, 9th April 1834;* than whom, I presume, it will be admitted the Church of Scotland has not a more profound theologian—a more learned ecclesiastic—or an abler and more accomplished member.

It is no light matter to change the constitution of an Established Church, on so important and fundamental a point. Who can foretell what precedent such interference may afford in the present age for further changes by the legislature? Who shall say to what extent such a change will weaken the attachment to Presbytery, especially if the practical result of depriving the Presbyteries of one of their most important and useful and sacred functions, is to diminish, in the opinion of many, the peculiar value of that form of Church government?

Dr. Muir emphatically said, in resisting Dr. Chalmers's recent motion, 'By introducing "the will of the people" as the paramount

* Published by Blackwood, Edinburgh.

‘test of the presentee’s fitness, my friend’s motion, however eloquently illustrated, overlooks and altogether neglects the sacred power of judging and moderating in the whole matter, with which Christ, the Supreme Head, has invested his Church. Indeed, the Veto act, which this motion is meant to revive, was a total extinguisher of the spiritual power of the Church, as assembled in Presbytery, the representatives of the people. The Veto act did not provide for the Presbytery judging and moderating in the matter of the presentee’s qualification at all. The Veto act raised the will of the people into the supreme place, and so laid prostrate that authority with which, for the ruling in his own house, Christ Jesus has clothed his Church. Assuredly, an expression of the will of the people ought to be gained, and ought to be duly weighed and considered. But an expression of the will of the people, which shall arrest the exercise of judicial power in the Church, is what, in my opinion, is opposed to the principle of Christ’s government, and is the subject, therefore, in this case, of just complaint.’

These opinions are entertained and felt most strongly by a great proportion of the ministers of the Church. They are entertained as strongly by a great proportion of the laity—I have no doubt by the great mass of the laity belonging to the Establishment. They believe that the plan of the Veto will destroy more than half the value of the Established Church of Scotland, and impair its constitution in some of the very points in which its excellency has consisted.

Dr. Chalmers is well aware of the force and weight of this objection. His original motion in 1833, as I have already shewn, *admitted it to be insuperable and paramount*, but attempted (very imperfectly and unsuccessfully) to reconcile the sort of power of rejection then contemplated, with the duty necessarily inherent in the Church Courts, of judging of the fitness of presentees. In publishing his speech in support of his recent motion, he seems, from a note which he has added, to have been anxious to endeavour to find some reply to this objection of Dr. Muir, so as to remove the distrust of the whole scheme in his own mind, which breaks out, I think, in 1839 more strongly than it appeared in 1833. And in this attempt to obviate the objection of Dr. Muir he is led to acknowledge the most fundamental objections in principle to the Veto scheme.

Accordingly he adds a *note* to his speech, in the following most remarkable terms:—‘It is an entire misconception that the Church has given up her power to the people by the Veto law. By that law the *presentation* may be said to be *shared between two parties*, the patron and the people,—signed by the one, and virtually countersigned by the other. The Presbytery still retains the same power of check and control over the *presentation in this form*, which we contend that it ever had over the simple nomination of the patron. We are not the registrars either of the patron or of the people. We are judges of the qualifications and of the *special fitness* as much still as ever; and, moderating in the call *between the two parties*’ (Indeed!—why, there is to

be *no decision* by the Presbytery if the parties differ:—what is meant, then, by the Presbytery moderating *between* the patron and people, I do not know) ‘as heretofore, we can lay our interdict both on the unworthy client of the patron, and on the unworthy favourite of the multitude. If this were thoroughly understood, it would reconcile, I am persuaded, many to the Veto law who are now opposed to it; and a still greater approximation would take place betwixt us, if instead of *acquiring in a simple Veto*,’ (what is the object of his own motion, and of the Committee appointed by the Assembly?) ‘the Church were *first to legislate against any unworthy traffickings between the candidate and the people*, even as it legislated against unworthy traffickings between the candidate and the patron, when it passed the Simony act. FURTHER,’ (even greater restrictions on the Veto!) ‘if all abuses cannot be provided against by law, *ought not* the defenders of the Veto act to consent, that, while the non-intrusion principle is in every case deferred to by that act being first put into operation—yet, that even it is *liable to be set aside*, if it can be made manifest that in *any* instance, the voice given forth by the majority has not been the *honest* expression of their mind and conscience, *because not grounded on religious considerations?* While I have the utmost respect for the collective will of a *simple, serious congregation*, provided it has been *genuinely* given forth, and on the principles of the declaration required of them—yet I can imagine the scandalous scenes of a political election to have disgraced the parish during the vacancy—I can even imagine individuals to have given proof, that they vetoed the nominee of the patron because they wished for another;* and so as to have falsified the declaration which the law might impose upon them.—In which cases, either the *WHOLE PARISH OUGHT TO BE DISFRANCHISED for that time*, or the *VETOES OF THE INDIVIDUALS SO FOUND AGAINST should be struck off from the reckoning*!!!†

What a condemnation in principle, of the Veto measure, is contained in these admissions! though it is true that, in the remainder of the note, Dr. Chalmers says it *has acted smoothly*. How much, in the opinion of its author, remains to be *added to it*, which it negatives and excludes at present, but which is here admitted to be required in principle, and necessary in practice. How much restriction to be imposed on the power of the people beyond the Veto law of 1834,—aye, and inconsistent with the principle of it! What limitations then ought not the *non-intrusion principle*, (interpreted as that is, viz., a *power to reject*) to receive before it is acted upon—before Parliament can be asked to give its assent to the Veto act, or to commit to the Church the unlimited power of giving effect to the will of the people?

Why, Dr. Chalmers contemplates the case of disfranchising a whole

* In these suppositions it cannot be doubted that Dr. Chalmers had in view well known cases, which *had actually* exhibited and illustrated all these evils. I shall mention some of these cases immediately.

† Speech, p. 34.

parish, even after they have exercised their right—not certainly a plan likely to produce much harmony, or peace, or contentment in the parish : but proving the extent to which the authority and jurisdiction of the Presbytery over the exercise of the people's decision, ought to be upheld, and the length to which in practice he knows that such interposition might be required. He also thinks that there should be reserved the right of full inquiry into the motives and reasons of the individuals exercising the right—whether *grounded on religious considerations or not*—not very consistent surely with the notion of a *right*, which is to be protected against all investigation by the Church.

The Church has not yet imposed or sanctioned these restrictions. Which of the supporters of the Veto, which of the Committee, concur with Dr. Chalmers as to their propriety or necessity? A great proportion of them advocate the Veto, with the view to gain the abolition of patronage, and the remainder strenuously adhere to it as, in its present absolute form, the check on patronage which, *at the least*, they demanded. And in the 'Statement' or circular of the Committee of the Assembly, now urging their plans on government, not a *trace is to be found of any such acknowledgment* of the necessity of these most serious and effective limitations on the power of the people to reject.

Further, the six years which have elapsed since 1833, seem to have impressed on the mind of Dr. Chalmers (and the change in the conviction of the author of the measure, as to its safety, is most material) the necessity of limitations, far beyond what, in 1833, in first proposing the measure, he then allowed to be necessary. For (notwithstanding the terms of the concluding part of the motion of 1833, which tried to reconcile it with the powers of Presbytery, and *might have enabled* the Church to exercise its full authority) Dr. Chalmers individually then *thought* that the Church *should not have* any authority whatever. He then said,*—'And here the question at once occurs, whether shall the objection taken to the presentee by the majority of the people, be submitted for review to the Presbytery, as by the acts 1649 and 1690, 'or' (*admitting thus, the Veto to be a great change*) 'shall it be held 'conclusive, so as, without judgment by us, to set aside the presentation? *My preference is for the latter.*' And he then states his reasons for that preference, though his motion, in deference, I presume, to the opinions of others, did not go that length.

The admissions I have now alluded to, are deserving of most serious consideration, when the measure to which they apply is now pressed on the Government and the Legislature, as a fundamental law of the Church, as a part of the great 'non-intrusion principle' which she is entitled to require the State to acknowledge.

But I must not be further withdrawn, at present, from noticing the way in which Dr. Chalmers has attempted to obviate the objection of Dr. Muir.

He says that the *right of presentation* under the Veto law, may be said to be *shared between the patron and the people*.

* Report of Debate 1833. Speech of Dr. Chalmers, App. p. 13.

What an admission this as to the *competency* and *legality* of the Veto act ! What a satisfaction to find this acknowledgment from Dr. Chalmers, when the whole argument in the Auchterarder Case resolved (in every branch of it) into a stout denial that the reference to the will of the people gave the latter any participation in the right of nomination or presentation. If this admission by Dr. Chalmers had been made in the first pleading in the Auchterarder Case, there would, in the mind of every man, have been an end of the whole question at once.

But passing over this,—a consistent admission by Dr. Chalmers, who, from the first, thought the Veto incompetent,—let us see whether the above view removes in the slightest degree Dr. Muir's objection.

(1.) It does not state the question correctly—for the Veto act does not in truth *bestow selection* on the people ; and unless *selection*, in one form or other, is bestowed on the people, the presentee is necessarily *submitted by the Church to the judgment of the people*. One party alone selects. The *concurrence* of a majority of the people is *not* required in the *first* instance to the patron's *selection*. In that event, the Presbytery would know nothing of the presentee until he had been named by one, and countersigned by the other, of the patrons. Dr. Chalmers, in so stating the matter, puts it as if *concurrence* is required. This is the sum and substance of the antithesis in the sentence above quoted. But under the Veto act, the people may have petitioned for the individual, as in the case of Lethendy,—they may have thus countersigned the presentation, and yet they may still veto him. The person is *selected* by the patron—the right to name is, by the scheme, to remain with him ;—and by him the individual is *presented to the Church*. And then the Church *submits that individual* to the people, and gives the latter a sovereign right to *reject* the person, (presented to the Church *for the judgment and approval of the Presbytery*), without the Church being entitled to say whether he is fit or not.

The Church do not receive a person *presented to them* by the *concurring choice* of patron and people : In that case, the people would be exhausted—no further recurrence would be made to them at all. The person would be at once tried by the Presbytery. But the scheme of the Veto is exactly the reverse. The person is selected and nominated by the patron alone. That is the law—that is proposed *to be* the law under the Veto scheme. Now the trial and admission of the person nominated, no matter by whom presented, is the power of collation, the province of decision, which belongs to the Church Courts. But the first step taken by the Church is *TO DEVOLVE THAT DUTY OVER ON THE PEOPLE,—WITHOUT APPEAL OR REVIEW, if they reject*. No doubt, if they do not reject, the Presbytery may still pronounce the man to be unfit. But if the people reject, the Presbytery never again hear of the man. The power of deciding that the individual *is fit*—is calculated to promote the objects of the ministry, and to labour for the people's good—is, in that event *taken from the Presbytery*—devolved over by the Church to the people. One half, then, of the province of collation, of the duty of trials—of the power of judgment, is taken from the Presbytery ; and that not the least important and valuable—certainly not the least sacred

and necessary function of a Christian Church, viz., that of opposing itself, with the just authority of its Divine commission, to causeless prejudices—to imperfect and erroneous opinions—to tendencies to false doctrines—to the many faults in corrupt human nature, which render the truth unacceptable—and to the innumerable causes which may lead men to reject a faithful and sound and plain expounder of the Divine Word;—the duty of opposing itself to *injustice*, if that is committed, to say nothing of higher objects, and of declaring that the intended pastor is well qualified for the work of the gospel ministry in *that* parish. It may be that such a man is only the more called for, because the people reject him.

‘We are to moderate *between* them.’ I am much at a loss to know on what view of the working of the Veto law this notion proceeds. If it means that the result of difference of opinion ought to lead both, or either, of the parties, to choose an individual whom the Presbytery favour, and so practically to throw the selection into the hands of the latter, I perfectly understand that: with a great portion of the Church, this is thought to be a most desirable result, which the Veto law is very likely to bring about. But there is not, I believe, a layman in Scotland who would not deprecate such a result. And yet there is really no other way, if the people differ from the patron’s choice, in which the Presbytery can moderate.

‘We are judges of the special fitness as much still as ever!’ Indeed! Let us take a case. Have there not been parishes, in which certain strange heresies had of late made considerable progress? Parishes in which tendencies to false doctrines had been exhibited and made secretly great progress? Congregations and sessions, in which such errors had manifested themselves?—though many of the individuals in the congregation remained for a long time in communion with the Church. I shall suppose that they had remained a little longer, notwithstanding the depositions of their clergymen, to which the General Assembly were at last driven. And I shall suppose that the patrons, exercising a great public trust, and scandalized at the occurrence of these absurd heresies, whether in the metropolis of Scotland, or in country parishes, had specially selected some one eminently qualified by theological learning, to combat with and expose such errors—the best champion of the truth who could be chosen; but on that very account less acceptable to the strong tendencies to false doctrine prevalent among the people, (notwithstanding the deposition which had marked the opinions of the Church), than a less ardent divine, a more ordinary man, might be:—and in such a case, the very individual who is the best qualified, shall be rejected and vetoed by the people. And yet Dr. Chalmers says,—that the Presbytery remain, under the veto, as much the judges of special fitness as heretofore. Why, the fact is, that none can ever be settled, whom the people do not wish to have. They may veto—the act of Assembly admits it to be fitting and proper—and their right is admitted by the present regulations, to veto successively as often as they choose, though each man may have been chosen on the recommendation of, or by the Presbytery itself, on account of the special circumstances of the parish.

It is no immaterial objection to the principle propounded by the Church, that it does not even provide for the prevalence of notorious error, heresy, and false doctrine; and that is one illustration of the force and importance of the objection I am now considering. The Roll made up and signed determines the right. It cannot be touched or altered. The prevalence of false doctrine may be notorious:—Its effects most lamentable. But the communicants are the Christian people. Their right to reject—their '*discernment of the Gospel*'—'*their perception of the truth,*' have all been admitted by the Church. It is for the '*Christian good of the people,*' that the Church has legislated. The *right* is acknowledged. And so the people must be allowed to go on to exercise the right when it is most plainly the duty of the Church to prevent their doing so, even if in other cases they should permit such rejection.

It may be said that, by long and tedious inquiry—by putting men to the test of examination on the standards of the Church—by catechising, &c., the Church may *deprive* them of their privileges. I doubt greatly whether any such inquiry would be competent under the Veto act, after a vacancy has occurred, and when the presentee has been named. The existing law acknowledges and gives to those actually in communion with the Church and on the adjusted Roll, a *right* to exercise the Veto. No provision is made for the possibility of such a case as that of heresy. But supposing such a violation of all rules should be attempted in a flagrant case, yet years might elapse before this arbitrary invasion of the provisions of the Veto law could be carried through; and even then, how difficult to prove heresy, especially as to laymen, whom you are not entitled to subject to the same examinations as ministers, and whose opinions you seldom could get at, on such points, with accuracy, even if you did so interrogate them. And thus, however fit, in the judgment and opinion of the Church, the presentee may be, the power of rejecting him as unfit, is given by the Church to the people, under whatever erroneous or heretical opinions they may for the time labour, without any reservation of the right to revise that rejection, or any practical means of controlling the exercise of the Veto, even where it is most obvious that it will be glaringly perverted and misapplied.

The people in the whole parishes in the country are supposed in all circumstances and at all times to be entitled and qualified to exercise the irresponsible power which the Church commit to them: and the power is acknowledged to be a *right* which arises from the mere fact of being in communion with the Church. Thus the very ground, on which it is admitted by the declaration in the Veto law, makes it obtain in principle equally throughout the whole country, and under all circumstances. And aware of the impossibility of making any other than an universal enactment, consistently with the principle on which the Veto law is founded, the act of Assembly 1834, and the regulations supplementary to it, do not admit of such a case as individuals, or of a parish, not being allowed to exercise the Veto, or of their votes being disallowed on any ground whatever.

(2.) It is really singular to find such attempts to reconcile, in this

manner, the admitted prerogative and duty of the Church Courts with the Veto. Be the Veto right or wrong, its effect surely is beyond question. No ingenuity can alter the plain fact, that the person is selected by the patron, and then is *submitted by the Church to the final judgment and decision of the people*, so far as they choose to reject. Is that not an abandonment of the great duty of deciding on qualification and fitness?

It is one thing for the *Church* to consider any decided repugnance by the great bulk of the parish, and to inquire into the grounds of it, giving effect to it when founded on rational objections which prove that the individual is not qualified—not qualified, if you choose, for *that* parish. But the principle of the Veto is totally different. It is, that the Church *submits* the individual to the *judgment* of the people.

It is one thing to leave by law to the people *and* the patron to *choose* the person *who is to be presented to the Church for trial*:—Of course, such choice would just be popular election; for the patron must yield in such a case. The Veto in principle professes studiously to avoid this—professes to be a mode of supporting and retaining patronage entire. That it gives practically half the right to the people, is true. But, in so far as the relative position of the Church to the people is concerned, the patronage remains wholly with the patron. A person duly chosen and selected is presented to the Church, and then the Church, with whom is the grand duty and power of judgment, submits the person to the judgment of the congregation, and allows the person to be rejected, without retaining any power to review that judgment, and to pronounce the man to be fit and qualified.

Most justly, therefore, might Dr. Muir protest against the recent resolution of the Assembly to abide by the Veto law.

‘ 1. Because the decision pronounced by the majority of this House, does not expressly recognize the power and prerogative intrusted directly by the Lord Jesus Christ, the sole Head of the Church, to the Ecclesiastical Courts, as at once the Representatives and Guides of the Christian people, viz. the power and prerogative of solely judging and determining on the qualifications of Intrants to the Holy Ministry.

‘ 2. Because the said measure, as it recognizes that the first principle for determining on the qualifications and fitness of Intrants to the Ministry in a Parish, is “the will of the Congregation,” affords no security for the introducing of sound and evangelical Teachers, in the times when the people have come, through defection from “the truth as it is in Jesus,” not to choose wholesome doctrine; and when, therefore, in the exercise of their simple resolution and sovereign pleasure, they may reject godly and faithful Teachers, whom the Church is solemnly bound to provide for the people, “whether they will hear, or whether they will forbear.”’*

* It is with some satisfaction that I recollect that, in 1834, I took the same ground in my reasons of protest against the original measure.

Dr. Chalmers himself drew the distinction correctly. He admitted the principle now contended for most fully, when he said in his recent speech, in explaining his own original view of the subject : ‘ What I wished to be done was to proclaim that power, (the Church’s power to put her own Veto on any nomination), and follow it up in every instance by a series of righteous decisions ; and this I said should be *our contribution* to the cause of Ecclesiastical reform. But while I felt perfectly clear as to the state of the relation between the patron and the Church, I was *not for our meddling at the time with the state of the relation between the patron and the people.*’

The distinction is indeed great between the most extensive view which can be taken of the *jurisdiction of Presbyteries* in regard to the trial and admission of presentees, and of the grounds on which they may reject, on the one hand, and the scheme, on the other, of giving to the congregation a right to reject the person selected by the patron, without the reasons being known, inquired into, or considered by the Presbytery.

The *one* is the JURISDICTION OF THE CHURCH, more or less extensive, according to the view which may be taken of that jurisdiction—to be exercised by the Church Courts—subject to the controul which publicity always creates, and to the security which will exist, that arbitrary, harsh, or extreme rejections by Church Courts, are not likely often to occur. The *other* is a deference by the Church to the *will* of the people as *supreme*,—an abandonment of the right of the Church to consider the grounds of rejection, and an admission that the Church must acknowledge the *will of their people* to be a matter beyond their province of inquiry and judgment as a Church—into the grounds and reasons of which they have no right to inquire.

Whether the Church is to inquire into the acceptableness of the presentee to the parish or not,—whether the Church is to consider special fitness for the particular charge or not,—whether the Church is to consider, on these or any similar grounds however general, the propriety of settling the presentee, *otherways* qualified, in *the particular parish*, still, in any such case, *it is the Church*, the regular judicatories of the Church, who are to deliberate and to decide:—the matter is for the *judgment and decision of the Church*. The grounds of objection, whatever they are, are to be considered by the Presbyteries,—parties heard before them,—the whole grounds of objection, or repugnance, or dislike, are to be inquired into and considered,—the sentence is by the spiritual guides of the people, and is appealable to the Synod and Assembly.

In that case, no part of the authority or jurisdiction of the Church is surrendered. The objectors must state their reasons. These may be insufficient, viewed as the objections of a single individual ; and yet the Presbytery may be satisfied that, when stated by the great bulk of the parishioners, they are entitled to more weight, and require serious consideration. But, *whatever the grounds* of objection are to the *special fitness* of the presentee for the particular parish to which he is presented, these, according to the view now referred to, are judged of by the

Presbytery, and the decision of the Church either confirms them, or, with the authority belonging to their sacred functions, overrules them as groundless.

In so far as the *will* of the people is also to be regarded, it is, according to the theory I am now adverting to, to be considered by the Church Courts, who would look to the knowledge which the people can have of the individual, to the grounds of their dislike, to the character of the congregation, and the weight due to its opinion, and to the probability that, not being really founded on any objections to his gifts and qualifications, it will be soon overcome by faithful service and assiduous labours: and would act firmly and authoritatively on the important principle, that it is not for their Christian good that the Church should give way to capricious and unfounded dislike,—supposing that it should not appear that the opposition of the parish originates in the mere desire to have another person:

This is the proper attitude of the Church, (whatever the views taken of *its* jurisdiction), as that intrepid and venerable champion of Presbytery, the late Sir Henry Moncreiff, emphatically states, and that of *objectors*, is the proper position for the people to stand in, according to the principles and practice of the Presbyterian Church in all times.

Dr. Chalmers candidly admits that, till within eighteen days of the debate in the General Assembly, this was the ground he was prepared to take as the true constitutional view of the subject: viz.—The Veto act being repealed, to let the Presbytery judge, in each case, of the fitness of the individual,—taking into account the opinion or repugnance of the people, according to the opinion of the Presbytery upon the whole circumstances of the case. But, he says, this ground was cut from under his feet by the opinions of your Lordship and Lord Brougham, in which he supposes you intended specially to define what fell under the definition of qualifications, with a view to exclude in all circumstances any consideration of fitness for the particular charge to which he is presented.

If it had been so, it is surely a singular ground for going further than he avows he thought, and still thinks, that the Church could legally go, viz., that he finds that the highest court in the kingdom had found that the Church could not competently go even so far as he thought it could. I am unable also to perceive why, if the prerogative and duty of the Church Courts were disputed, he should go into the very opposite extreme of renouncing and abandoning their high and paramount duties, and of abiding by this peremptory right of rejection,—which again, in other three weeks, when he *publishes* his speech, he thinks should be subjected to such important and sweeping restrictions.

But passing over this, I apprehend that Dr. Chalmers and others have wholly misunderstood the purport of the observations in the opinions, delivered in the House of Lords, on which he comments.

Your Lordship will permit me to advert shortly to this misapprehension, for it bears upon a very important point in the question now raised by the Church.

The supporters of the Veto choose to confound, in the discussions at present going on, two matters essentially different,—the *one*, the *Jurisdiction of the Church*, and the extent to which the Presbytery is entitled to consider every matter which touches the qualifications of the presentee, including qualifications for the particular parish to which he has been presented; and the *other*, the *right* of the people to reject the presentee, merely because they choose to do so.

Whatever view is taken of the former point cannot possibly bear upon the other, viz., whether the people *have*, by the *constitution of the Church*, a *right* so to reject. In one view which may be taken of the former point, it may be thought by many that it *becomes* EXPEDIENT to give the people that right of rejection. But that is not what the Church says. They maintain that the people possess, and always have possessed, a *right* to reject. Then, of course, that *right* ought equally to be acknowledged and admitted, however large the view which may be taken of the jurisdiction of the Presbytery.

Accordingly the right was contended for on grounds perfectly independent of and separate from the question of the jurisdiction of the Presbytery, and the extent to which they may go in deciding upon the propriety of settling the individual in the parish to which he has been presented. All the grounds which have been stated in order to prove that, either by the practice of the Church, or on the religious or constitutional principles admitted by the Church, the people are entitled to put a Veto on the selection of the individual who is proposed for their pastor, apply with equal force to prove that such must be their right, whatever opinion the Presbytery may form as to the propriety of attending to their expression of dislike.

I quite understand that in proportion as the jurisdiction of the Presbyteries may *appear* to be narrowed, so as to exclude altogether the consideration of qualification for the particular parish, many may on that account think that it *becomes necessary and expedient* that in that case the parish shall judge and decide for itself. But this is at best a reason for *bestowing* the power. The view taken by Dr. Chalmers is, that owing to the perusal of the opinions delivered in the House of Lords, he must now adhere to the acknowledgment that the people, in all cases and in all circumstances, have *always had the right to reject*, although eighteen days before he was prepared for the opposite course, of allowing the Veto law to be repealed, and then maintaining that the Presbytery, in the exercise of its jurisdiction, was entitled to judge and decide in the whole circumstances, whether, taking into account the views of the people, the individual was qualified for that particular parish. Now, in that case, the Presbytery might and would have decided for themselves whether any dislike on the part of the people was ‘truly founded *on objections personal to the presentee*,’ and so of sufficient weight, and would have settled or rejected the individual, according as it might appear that the opposition was unreasonable, or too serious to be in their opinion disregarded. On that view, there would have been no *right* acknowledged or exercised corresponding in principle to the Veto.

But if such a principle exists in the Church, as a *right to reject*—if

the people *have*, by the *law of the Church*, that *right*, it is one surely which must be admitted and acknowledged equally, whatever opinions were supposed to be delivered in the House of Lords in regard to the extent of the jurisdiction of the Presbytery.

If, indeed, the minds of men are so unsettled upon all these questions, that the *acknowledgment of a previous and original right*, belonging to the people of the Establishment from the time of the Reformation, is to be confounded with the power of the Assembly to *bestow or withhold* it, according to the expediency of the moment; and if, when it is expedient to bestow the right for the first time, the language used is to be the same as if a right had always existed, which the Church has no power whatever in that case to withhold, being as much a portion of the constitution of the Established Church as the jurisdiction of Presbyteries, it is not surprising that such a distinction should be overlooked.

But we are at present dealing with the grave and positive *assertion* of a constitutional principle—with the assertion of a *right*—not with any claim on the part of the Church to give or bestow—to acknowledge or withhold at pleasure such a privilege.

It appears to me to be most material to keep in view these three simple propositions—

1. That any questions raised as to the *jurisdiction of the Church* in regard to qualification, cannot affect the point, whether there is actually, and has always been, a settled law in the constitution of the Church of Scotland, that the people shall have a *right to reject* the presentee.

2. That whenever Dr. Chalmers admits that the Church may impose restraints upon the exercise of that power—may disallow the judgment passed, or may disallow the votes of individuals exercising the power, the privilege, call it what you may, is then no longer a *right of rejection*, but something totally undefined and unknown, which we are now for the first time to explain, define, regulate, and modify, according to views of expediency and fitness,—in other words, to bestow by legislation.

3. That if the Church may give or withhold that privilege—may themselves judge of the dislike, or may establish it to be a peremptory or necessary bar to admission—if the Church is to take either view, as it deems expedient, that again is, on the part of the Church, *legislation* by the Assembly on the subject—not the *acknowledgment of a right* on the part of congregations, which it behoves the Church both to admit themselves, and to uphold against all interference by the State.

No view then which might be taken of the expressions employed in the opinions in the House of Lords, in regard to the jurisdiction of Presbyteries, could warrant the course taken by the Assembly in asserting the Veto by the people, as a matter of right, to which the Church was determined to adhere and enforce, which did not equally result from the judgment of the Court of Session.

The very acknowledgment of Dr. Chalmers, that; until he read the *opinions* in the House of Lords, he would have been content to fall back on the jurisdiction of Presbyteries, and to uphold their right to reject

the presentee, *provided they* thought the opposition required that judgment, seems completely to establish that, according to *his* views, the decision of the Court of Session could not be complained of, and that the Church was not warranted, constitutionally, to assert that the Veto, *as a matter of right*, must be enforced in all cases, and in all parishes.

That your Lordship, or Lord Brougham, in your opinions, went further than the majority of the Court of Session had done—(the *judgment* is one *merely of simple affirmance*)—that you intended to pronounce any opinion as to the extent of jurisdiction of Presbyteries on cases coming properly before them for judicial decision, and to exclude any matters which fall under qualification in *any* sense of *that* term, it will not be easy to persuade those conversant with such matters. There is not one sentence in either opinion, which either goes beyond the point actually decided, or beyond the views on which the Court of Session proceeded in giving judgment.

I shall take the liberty of briefly advertng to these opinions, in order to introduce some remarks on the jurisdiction of Presbyteries, on which I think the Veto so materially encroaches.

In considering these opinions, it is to be remembered, that the Veto has always been dealt with in two points of view; 1st, Have the people a right to reject? and, 2dly, Can the Presbytery reject,—not on any judgment formed by themselves, but simply on account of a dissent by the people? But the latter point is only another way of expressing the same question, for the Veto does not admit of the Presbyteries *considering* of the rejection at all. They *must* set aside the presentee when he is vetoed.

Your Lordship certainly was of opinion that rejection on account of the mere dislike of the people,—stating no objections, bringing no facts before the Presbytery for judgment, taking the matter wholly out of the hands of the Church; a dissent admitted to have the effect in itself of a Veto on the presentation,—a complete peremptory rejection,—was totally incompetent,—incompetent according to any law or practice even of the Church. I think Dr. Chalmers has himself admitted its novelty. But it does not appear that your Lordship or Lord Brougham ever intended to *define*, (to *decide* of course was out of the question), what *did* fall under qualification when forming the grounds of *judgment* by the Presbytery on *objections* stated to them; or to exclude any elements for their judicial consideration which specially affected the *qualifications* of the individual. The *mere dislike* of the people,—(groundless, unjust, capricious, it might be, in the opinion of the Presbytery, and yet without the latter having either the right to inquire into it or to disallow it,)—most assuredly you excluded:—For you held that the people were not in law, or by the practice of the Church itself, either *patrons* or *judges*,—that they had no right of nomination or of Veto on the nomination,—that they had no right of judgment. They are to be objectors, but to the Presbytery belongs, properly and exclusively, the power of decision; and when the matter is put as a case for the judgment of the Presbytery, I find nothing in the opinions in question which, when so understood, and not misapplied

by taking individual expressions without reference to the subject matter of discussion, touches even the competency of the Presbytery sitting as a court, or the extent of its jurisdiction as to the subjects on which it is to form and pronounce a judgment,—provided it be a *proper judgment* on the *qualifications* of the individual.

But to give effect to the will or pleasure of another body you do hold to be incompetent, and among other reasons, because it is no judgment whatever by the Presbytery on the *qualifications* of the party presented to the Church for trial.

In the course of the opinions of your Lordship and Lord Brougham, a variety of expressions and observations occur, (as in the opinions of the judges of the Court of Session), in order to shew that the terms, ‘qualified,’ or ‘qualifications,’ applied to an individual to be named, cannot include the ‘dislike’ of another party who is not referred to as having any power of rejection; ‘that it does not comprise the qualification of popular favour;’ that ‘within its scope cannot be brought the acceptableness and reception of the party presented to the congregation as finding favour in their sight;’ and that it would be a violent strain upon the law to impute to the term qualified any such meaning.

I need not notice the reference Dr. Chalmers makes to the observations by Lord Brougham and your Lordship, on the arguments pressed on the House of Lords respecting the Call; for in truth, the point as to *concurrence* or *assent* of any kind, does not enter into the Veto at all, or into the resolution of last Assembly.

In the opinions in the House of Lords, the jurisdiction of the Presbytery is referred to, with reference to the points I have already mentioned, and in order to shew that no correct view of their jurisdiction respecting qualification could include the point of mere dislike by the people, the grounds of which the Presbytery were not permitted to consider. For no other purpose was the question as to the jurisdiction of the Presbytery referred to or discussed. What matters may be included under the general term qualifications—what objections will be competent under the general power (for it is alluded to in the most general terms) of objecting to doctrine, life, conversation, morals, or other ministerial gifts—to the *individual’s* qualifications, whether for the ministry or for the particular parish, matters personal to him—are neither further discussed nor referred to. It would indeed be difficult to define what shall or shall not be competent under a term which—precisely because your Lordship held it to have *personal reference to the particular individual*, and not to another party’s estimate of that individual—may vary with all the matters in which that individual may in himself be found deficient.

I am quite persuaded that no one conversant with such subjects could ever take a different view of these opinions; and I doubt not that your Lordship will be surprised to find that the General Assembly have been urged and stimulated to come to the resolution which they have adopted, because it has been imputed to you that you had deliberately intended to pronounce a judgment generally on the extent of the juris-

diction of the Presbytery, in deciding upon the matter of *qualification*, in the sense in which you understood that term, viz. excluding the dissent of the people, given without any reason, which undoubtedly was excluded.

But I own I do not exactly understand this part of Dr. Chalmers's speech,—viz. the explanation he gives of the reasons for changing his views as to what ought to be done by the Assembly.

True,—the opinions in the House of Lords declare that the Presbytery cannot reject, simply because the people say,—We will not have this presentee. But *so had the judgment of the Court of Session*—as explicitly—in as unqualified terms. If, then, Dr. Chalmers holds—as in another part of his speech he does, apparently in the *broadest sense of the terms*—that the people are *entitled to prevent* a presentee being settled, simply because they do not wish to have *him*,—without stating any reason, and without being either called upon, or able, to state any; and that the Presbytery, on *that* ground, are *bound and entitled* to reject,—then, to be sure, his view is entirely excluded, by the deliberate judgment of your Lordship, not merely as to the import of the statutes of the Legislature, but on the laws and practice and principles of the Established Church, as pleaded and stated by the Church itself before the House of Lords. But it was *equally and not less excluded* by the judgment of the Court of Session. The latter did all that the House of Lords did,—for you simply affirmed their judgment, and that judgment completely excluded the principle of the Veto in every view which Dr. Chalmers states of it.

I cannot see, therefore, what the views of Dr. Chalmers are which were reconcilable with the judgment of the Court of Session, but which your *opinions* excluded:—or how the course of obedience to the law—of taking the presentee on trials—but of asserting the right of the Presbytery to judge of every thing which touched his qualifications, which Dr. Chalmers thought was the proper course for the Church to pursue, *before he read the opinions in the House of Lords, became improper after he read them.*

The truth is, it is the right of rejection by the people which Dr. Chalmers abides by, and which the judgments equally of both Courts disallow. But when that is the ground taken, let us at least see it correctly stated and avowed,—for it is a very different thing, indeed, from the Church being compelled to take the ground it has done, not on this point of the Veto, but in consequence of the House of Lords improperly and incompetently going out of the cause before them, to decide upon and limit the jurisdiction of the Church Courts on matters of qualification, by defining that jurisdiction in a way totally different from the Court of Session, and in reference to points which *could never* even arise in that cause.

I cannot but think that Dr. Chalmers has not cleared up, in his own mind, some of these matters.

He did *truly mean to take his stand for the Veto, as disallowed by the*

Court of Session, else his speech and his motion in the circumstances have no meaning. Both are studiously framed to assert it—to abide by it.

That he had very suddenly changed the course which he intended to pursue, cannot be questioned. He states that explicitly. But the ground on which he altered his view of the course which the Church should adopt, he has not *succeeded in explaining*. The judgment of the Court of Session, and the opinions delivered by the Judges of that Court, should equally have produced the view he ultimately took.

No doubt, he says the motion was given by him to others to put into shape; and it is curious enough, that, in the note already quoted, he proposes *two* most important alterations in and limitations on that very law of the Veto, or rather on that *right of rejection*, which, according to his motion, in express reference to the Veto law and the decision on it, the Church declares that in duty it must enforce, acknowledge, and give effect to, whatever are the consequences. But his Committee claims the sanction of the Legislature to the principle of the Veto act as it has been passed, *i.e.* to the *right of rejection*, without any modifications of it, as the very *least* effect which ought to be given to the *will* of the people.

The point then raised by the motion of the Assembly, is the *right of the people to reject without reasons assigned*, and without the Presbytery being entitled to call for these reasons, or to decide upon the fitness of the person whom a majority *choose to reject*.

Dr. Chalmers is well aware what a fatal blow will be given both to the duties of Presbyteries, to the principle of Presbytery itself, and to the interests of religion, by the unqualified and permanent establishment of this peremptory and absolute *right of rejection*: If the acknowledgment shall be finally made by the Church and by the State that the *right* exists, it becomes incompetent for the Church to restrict it, as it will be *impracticable* to withdraw it: And therefore he proposes now his restrictions on the right. But these, as I shall afterwards shew, are inconsistent with the principle contended for; and any hope of the Committee ever adopting such important restrictions on the right, and departing from the principle, is wholly dissipated by the ‘official statement’ of the Committee. We must look to the question, then, in reference to the absolute right of Veto which the General Assembly has adopted, and which the Committee now urge upon the Legislature.

This relative position of the Church to the people is not the theory of the ecclesiastical constitution of the Church which the *State adopted*. That is now, I may say, admitted. Dr. Chalmers admits that he never thought it was.

Such is not, moreover, the theory or practice of the constitution of the Church, at any period; for it is not even pretended that the *Veto* was borrowed from any older but obsolete regulation, the same either in substance or principle.

Beyond all question, such was not the theory of the powers and functions of Presbytery, even by the Directory 1649, when Parliament, abolishing patronage wholly, and establishing popular election, left

to the Church the regulation of the relative positions of Church and people.

It is to this abandonment of the functions of Presbytery that I specially object, under this head of my observations. That it is a great practical change in the Church of Scotland, is surely no light objection. But it is also a change in one of the fundamental doctrines of Presbytery—a change in the government of the Church by Presbyteries, in whom reside the great duty of deciding upon the qualifications of those nominated to livings.

It is in vain to deny the distinction, the broad fundamental distinction, between giving the people a right to elect as patrons, and submitting to their judgment—I should say to their approval or rejection—the individual presented by the patron. In the latter case they are to decide upon fitness and qualifications. The Church commit that power to them absolutely in the event that they choose to reject. They demit that power in favour of the people, who may reject a person eminently qualified for that particular parish, in the judgment and knowledge of the Presbytery itself. And a surrender, therefore, or abandonment of one of the great functions of Presbytery, the Veto beyond all all question is, in any consistent view which can be taken of it.

But because the dislike of the people is held not to be matter of qualification, and because the Presbyteries are held not to have a power to reject, *simply because the people do not choose to have the individual*, without assigning any reasons, is it implied in this, that the *jurisdiction* of the Presbytery, *in judging of the qualifications of the presentee*, in the *largest* sense of that term, is in any degree restricted or disputed? If I understand the judgment of the court, it partly proceeded upon that very view of their duties and powers as matter of established law, the departure from which I deprecate as most objectionable in principle.

If the mere dissent of the people is excluded, then you go at once into matter of qualifications *in the individual himself*,—into the inquiry of objections to the person presented.

No doubt, if Dr. Chalmers maintains that the mere dissent of the people, without reasons, *is matter of qualification*—that they have a *right* to reject, or that the Presbytery, on *that* ground, may find him not qualified, that is one view—the maintenance of which is plain disobedience to the law, but equally against the law of the Court of Session as of the House of Lords. But when that is the view contended for, let us remember that it beyond all doubt excludes the possibility of any modifications or restraints of any kind on the Veto.

But wishing to keep now to the objection which I have at present stated to the scheme of the Veto, I am anxious that the extent and nature of the jurisdiction of Presbyteries should be kept in view, before a measure shall be countenanced which takes from the Presbyteries their duty in every case in which the people choose to reject the presentee.

I have always wished to see some explanation of the grounds of objection to what is called the special fitness of the presentee for the par-

ticular parish to which he has been presented, exclusive of the mere dissent of the people, which it is said the judgment prevents the Presbytery from taking into consideration. It is not easy to understand how any other matter whatever, beyond a dislike for which no reason need be or is stated, is excluded from the consideration of the Presbytery. If, however, this doctrine of special fitness for a particular parish, only means—Do the people choose to have him, or do they dissent, then let us keep to plain terms and expressions upon the subject.

But when Dr. Chalmers thinks that the opinions delivered in the House of Lords have made a sweeping encroachment on the jurisdiction of Presbyteries, beyond the declaration contained in the interlocutor of the Court of Session, (viz. that a rejection on account of the mere dissent or Veto of the people was illegal,) one must presume that he alludes to some important matters on which Presbyteries are, in the practice and in the theory of the Church, accustomed or entitled to proceed. At all events, before the Legislature is expected to make so important a change as to sanction the Veto on account of the danger to which such jurisdiction of the Church would otherwise be exposed, it is necessary to consider what, beyond the mere dissent of the people, is to be thereby saved and upheld.

What are then these grounds of special fitness ?

That the individual is not *able* for the duties of *that* parish,—feeble in body, and unfit for pastoral exertions,—disqualified by blindness,—by *any* infirmity,—of a voice that cannot fill any Church, much less the large one which he aspires to fill,—that his appearance and manner is deficient in the gravity or seriousness of deportment of a Christian minister,—that his conduct is boisterous, rude, and unseemly,—or that his habits, associates, and pursuits, are not those which become his calling,—I would take any such objections, however vague or general,—and I should wish to ascertain which of all these do not enter into and fall within the matter of *qualification*. True, the *Presbytery* is to judge : *Their* opinion upon hearing the objection is to decide, not the opinion of the people ; and it is true that slight defects in some of these and similar particulars will not be held *by the Presbytery* to be sufficient to *disqualify* the presentee. But still such objections all more or less affect the individual's qualifications, and in the degree in which they exist, may plainly amount to direct personal defects.

It is very remarkable that, in all the discussions on this subject, notwithstanding all that is said on the subject of special fitness, one never meets with any statement of the class of objections included in that term, to preserve which the Veto can be required, *in addition* to that of the mere dissent or Veto of the people,—and which may not all be considered and judged of by the Presbytery, with the people before them as objectors, stating such points for inquiry and decision.

I will take an actual case as an illustration, the more so as it is always quoted as one which proves the nature and extent of the jurisdiction of the Church Courts, and which marked at least what was the impression and understanding of the individual now addressing your Lordship, when He

held public office. A gentleman obtained a presentation from the Crown to the parish of Dunkeld, who was unacquainted with Gaelic, or nearly so. It was urged by the parishioners that Gaelic was necessary for many of them,—at all events, that many understood it better than English, except for the mere purposes of ordinary conversation, and that preaching in English alone, or that any other serious communication with them, would be very much thrown away upon them,—that, like many other parishes, they had had Gaelic service half the day,—and that the Church required invariably a knowledge of that language in such circumstances.

Before the case came to the Assembly, a strong impression had been produced by circumstances in the conduct of the Presbytery, that they had stirred up the opposition,—and that the objection to the want of Gaelic was merely a pretext for not settling the individual. I was then Solicitor-General, and a member of the Assembly. I had been strongly impressed with the conviction that the case was truly of the complexion I have mentioned; but the only point on which I ever entertained any doubt was as to the *reality* and *truth* of the objection:—Of the *competency* of such an objection, I never entertained any doubt. This case is always appealed to as a favourite illustration of the objections to *special fitness* for particular parishes, of which it is contended the Presbytery is entitled to judge,—and most justly contended, when that term is properly understood. In the course of the debate I became satisfied, on the *evidence*, such as it was, before the Assembly, that Gaelic was a proper qualification for that parish, and that the heritors had obtained the presentation without stating the circumstances of the parish sufficiently to the Crown. I did not think it fitting to give my vote, on an opinion formed in the course of the debate, against an individual holding the Crown presentation, but I withdrew at the close of the debate, (notwithstanding the great keenness with which the point was discussed as to the question of fact), because I could not vote in support of the presentation. But the only question of competency which was raised, was as to the *time* when the fact should be inquired into; and on the objection itself the one motion was simply to appoint a Committee of the Assembly to inquire into the fact,—the other, to find the fact proved, and not proceed with the settlement of the presentee, and to intimate that decision to the officers of the Crown. The *validity* of the judgment was acknowledged by every one.

But I well recollect that, in the elaborate and masterly speech of Dr. Andrew Thomson, no such ground was ever hinted at, as that the simple dislike of the people, without reason assigned, was, by the law or practice of the Church, a ground for the Church Courts rejecting the individual.

In these and other similar questions, the point arises, on reasons stated for the cognizance and determination of the Presbytery, whether the person whom the patron presents to a particular parish is *qualified*, and qualified for that parish. The Church requires Gaelic for a proper Gaelic parish,—then Gaelic is as much a qualification, as much matter of fitness in such a case, as the knowledge of Latin or Greek. My friend, Dr. Muir, puts,—for the case of a parish where the number of Roman Catholics is great,—accurate knowledge of the points of controversy be-

tween the Popish and Reformed Churches; and, justly :—That is one of the leading subjects,—I do not say of controversial divinity, but—of sound theology, according to the faith of the Protestant Churches,—of ‘ the truth as it is in Jesus.’ Who can doubt that the examination of the Presbytery may be carried to any extent upon that subject,—that wherever they think the qualifications of the presentee, as a defender and expounder of the *distinguishing* doctrines of the Church to which he belongs, may be peculiarly required, and the individual is found deficient in such particulars, he may be justly rejected. In truth, the same judgment might justly be pronounced in regard to *any* parish to which the individual might have been presented. The circumstances of the parish, to which he has been presented, peculiarly press upon the Presbytery an examination into these points, on which he is bound to be qualified,—more than into many others less prominently forced in that case on their attention. Then he was bound to be ready to meet such examination and tests. The individual then is, properly speaking, not qualified.

This, again, is a case of judgment on qualifications. Dr. Muir seems partly to have been misled by the use made by Dr. Chalmers of detached portions of the opinions in the Auchterarder Case, for he *doubts* (if I understand his speech correctly on this point) whether the competency of the Presbytery to decide on such grounds is not barred by the opinions in the House of Lords. I cannot find one sentence which excludes such a view of the jurisdiction of the Church Courts.

The case put by Dr. Muir is most plainly one of qualification,—of proper qualification. The very ground of inquiry in such a case might be gone into in every case.

The case of Dunkeld, indeed, goes much further. I do not think one word, in the opinions referred to, touches the point of the jurisdiction of the Church on any similar points.

And here one must lament, considering the statement which Dr. Chalmers has given of the fluctuation of his own views, that the motion of my Reverend Friend and Pastor for delay, and for the appointment of a Committee merely to deliberate and report to the next Assembly, as to the position the Church was placed in, had not been adopted by Dr. Chalmers and those who voted with him. Dr. Chalmers at once assumed a ground totally different from that which, eighteen days before, he was prepared to take on this important constitutional question,—and that, too, it seems merely from perusing the opinions delivered in the House of Lords, which, on careful consideration, it must be admitted he has misapprehended. What a ground for hurrying the Church into the extreme position at once assumed by his motion,—what an illustration of the manner in which a popular Body may be worked upon and misled in the heat of first impression! How few probably of the ministers from the country had considered these opinions! How slightly could Dr. Chalmers himself have considered them in the few days which intervened after the publication of the Report, when he interpreted them into a denial of the jurisdiction of the Church on points which were not before the House of Lords!

But the ground taken by Dr. Chalmers was pre-eminently one,—altering, as it did, his intentions,—which should have led to delay, to deliberation, to inquiry. How it should lead to the very opposite course from that which he had intended to recommend,—viz. of asserting the prerogative and duties of the Church Courts,—he has not explained.

Let us consider what is the ground on which Dr. Chalmers specially defends the right claimed for the people to reject—without stating a reason—the person presented to them by the patron, and for excluding the jurisdiction of the Presbytery to consider the grounds of rejection. It is this :—‘ That the people could say no more ; yet said most truly, that ‘ the presentee did *not preach the gospel*, and that *in the doctrine* he ‘ gave there *was no food for the nourishment of their souls* ;’ that there exists ‘ this discernment of the gospel, this just perception of truth, on ‘ the part of a home-bred peasantry, though unable to assign the principles or reasons’, to a greater extent than ‘ their just perception of ‘ beauty, though unable to assign the philosophy of taste ;’ that they know what is or is not the truth ; what is or is not the true mode of preaching the truth, though they cannot defend or state their reasons.

Now, if there is one qualification more than another, of which, according to the fundamental doctrines of Presbytery, (I should think of any Christian Church), the Church are to judge, it is surely, 1st, of soundness of doctrine ; and, 2d, of soundness in the mode of preaching the truth, and sincerity and love of the truth in the preacher. Are these matters on which it is possible to say that the people are incapable even of stating or making known their objections, or on which the Presbyterian clergy are incompetent to understand their people, unable to enter into their feelings, and not qualified to decide for their true interests and benefits ?

The passage in Dr. Chalmers’s speech to which I advert illustrates forcibly one great fallacy on which his argument proceeds, viz. that the people *cannot state or make intelligible* their objections, though these may be founded on the most solid grounds, namely, unsound doctrine and unsound mode of preaching the gospel. He says, in a very eloquent passage certainly,—‘ There is much, and that the weightiest part by far of ‘ the internal evidence for Christianity, that rests on the adaptations ‘ which obtain between its objective truths and the felt necessities or ‘ desires of our subjective nature,—adaptations powerfully and intimately ‘ felt by many a possessor of that nature, who is yet unable to propound ‘ them in language, far less to state or vindicate them at the bar of ‘ judgment. And if ever the prerogatives of the human conscience ‘ were at one time more cruelly trampled on than at another, it has been ‘ within the last century, and at the bar of this House,—when the collective mind of a congregation, who both knew and loved the truth as ‘ it is in Jesus, has been contemptuously set at nought ; and the best, ‘ the holiest feelings of our Scottish patriarchs, by lordly oppressors sitting in state and judgment over them, were barbarously scorned. In ‘ that age of violent settlements, these simple, these unlettered men of ‘ a rustic congregation, could say no more, yet said most truly of the

‘ intruded minister, that he did not preach the Gospel, and that in the doctrine he gave there was no food for the nourishment of their souls. I cannot image a more painful spectacle than such men as these, the worthies of the olden time, at once the pride and the preserving salt of our Scottish commonwealth, placed under the treatment and rough handling of an able, jeering, ungodly advocate,—while coarse and contemptuous clergymen, booted and spurred for riding Committees, were looking on and enjoying the scene; and a loud laugh from the seats of these assembled scorers, completed the triumph over the religious sensibilities of men, who could but reclaim with their hearts and not with their voices. This was the policy of Dr. Robertson, recently lauded in high places,—a policy *which HAS DISSEVERED OUR POPULATION FROM OUR CHURCH, and SHED MOST WITHERING INFLUENCE OVER THE RELIGION OF THE FAMILIES of Scotland! Re-enact this policy if you will, and you place your Kirk as a National Establishment on the brink of its sure annihilation.* Have a care, ye professing friends of order and loyalty, have a care, lest, by a departure from the line of resolute and unswerving principle, you strip the Church of all moral weight in the eyes of the community. Think of the deadly enemies by whom we are encompassed; and have a care, lest, by one hairbreadth of deviation from the path of integrity and honour, you cause the hearts of these Philistines to rejoice.’

It is unnecessary to dwell on the exaggeration which furnishes the point to this passage. To defend a change introduced in 1834, it is found necessary to go back to the view which one party takes of what is *supposed* to have happened eighty or ninety years previously, and to depict imaginary scenes of that age, as if they had any reference to the actual state of matters in the Church. Neither need I advert to the statements introduced as to the personal and general alienation of the people of Scotland from the Established Church, and the withering influence of the Church over the religion of families in Scotland during the last eighty years. I simply notice these statements, as they are well calculated to create the utmost distrust of the practical measures which are founded upon such a view of the state of the feeling towards the Church and of religion throughout the country. Many passages might be quoted from other speeches and publications, descriptive of a very different feeling towards the Church, during his own life, and before the Veto was heard of. But the fallacy I advert to is the supposition that the objectors are, as it were, to be personally present at the bar of the Assembly, or must be present and must be *able all and individually to explain and defend* their objections, either there or before the Presbytery.

I shall suppose that a case has occurred in which individuals in the humbler classes of life think that the presentee does not preach the gospel, and that his doctrine gives no nourishment for their souls. Such is their objection—the gravest and most important, certainly, which can be stated. The individuals resolve to state the objection. They *may* do so personally to the Presbytery,—but *all and each* need not be able to explain and illustrate their views by public speaking. We all know how seldom, if ever, it is that the people are left to state their own opi-

nions to the Presbytery. I believe it would be much better if they did so oftener. In all probability the result would lead to prejudices being removed,—to groundless objections being satisfactorily explained. But no sooner is opposition intended, than the array of a legal contest is prepared for,—and the true ground of complaint and regret really was in any cases which occurred before the Veto,—not that the people could not explain personally their objections to the presentee, but that they *would not* come into contact with the Presbytery, having, in fact, other grounds of opposition than any personal to the presentee, (as in some of the cases mentioned by Lord Moncreiff in his evidence before the Patronage Committee,) and purposely left the matter to be dressed up in the best way it could by the legal ingenuity of their advisers on the spot. It is really too much to suppose that there is any inability to make known to the Presbytery the objections, whatever they are, when all taking interest in such matters have often seen with regret that the people, on the contrary, purposely abstained from having any personal communication with the Presbytery, and desired to fence themselves round with the armour of legal ingenuity, in order to fortify objections which they knew not to be tenable.

But when the parishioners really have objections to doctrine, and to an unsound mode of preaching the doctrine, there will not be found, in a Scotch parish, any inability to make such objections perfectly plain and intelligible to the neighbouring clergymen—many of whom too, are well and favourably known to the parishioners. Whatever embarrassment the members of the most *rustic* congregation might feel, if called upon to state their opinions on other subjects of secular interest, their knowledge of the Bible—their familiarity with the doctrines of the gospel, derived also from instruction in the Catechisms of the Church, and from parochial catechising, and examinations of all classes—and the intense interest which they take in doctrinal matters, can leave no doubt that there will be always found individuals, and many, amply qualified to state and explain their objections, when those are in the least degree of the character adverted to by Dr. Chalmers.

His view of this matter is directly opposed to that of many of those who are advocating the Veto, because it seems to ensure, or is a certain stepping-stone to popular election,—for they, on the other hand, support these charges partly on the ground of the great religious attainments and intelligence of the people of Scotland;—and certainly their view of the subject is both more plausible in theory, and better founded in fact.

But it is manifest that Dr. Chalmers's view involves, and in consistency requires, election or choice by the people. If his view is just, it is not because such objections as he mentions cannot be stated and made intelligible, that you ought to give a peremptory right of rejection, in order to protect those who cannot state such objections. The right to be given on such grounds, ought to be a right to elect;—because these inward sympathies and feelings and repugnancies, which do not amount to any objection whatever, but which, at the first, and on the impression of the moment, ought nevertheless to have full effect, and to be conclu-

sive, in regard to the formation of the bond between pastor and people, can only be completely protected, and the bond properly constituted on such views, by giving the choice to those whose sympathies must be so consulted. Dr. Chalmers's argument necessarily leads to that result. It is in vain to state it as a ground why the Veto should be a right to reject without reasons, when it is urged only because parishioners cannot explain the most weighty, plain, and vital of all the objections which can occur.

There may be plausibility in these eloquent passages, when urged in support of election by the people, but they really fall short of the only conclusion which can be drawn from them, when they are stated as reasons why the Veto is required in order to secure *full effect to the plainest and most intelligible objections*—the very objections which the humblest classes not only can state most satisfactorily but perhaps as well, or better than many of those greatly superior in worldly education. It is to such objections as these, that Dr. Chalmers says he is anxious to give effect. It is not to gratify mere dislike : It is not to secure choice that he advocates a peremptory Veto, without reasons ; but because these important objections the people often cannot state at all, or make known to the Presbytery :—Hence they must be allowed to reject without being called on to assign any reason.

Yet of all others these are the objections which it is most easy to make known.

Dr. Chalmers continues his remarks as follows :—‘ This *discernment of the gospel*, this *just perception of truth* on the part of a home-bred peasantry, though unable to assign the principles or reasons, is not more marvellous than is their just perception of beauty, though unable to assign the philosophy of taste. Hear the most philosophical of all our poets, Akenside, who, in his *Pleasures of Imagination*, bids us

“ Ask the swain
Who journeys homeward from a summer day’s
Long labour, why, forgetful of his toils -
And due repose, he loiters to behold
The sunshine gleaming as through amber clouds
O’er all the western sky. Full soon, I ween,
His rude expression and untutor’d air,
Beyond the power of language, will unfold
The form of beauty smiling at his heart,
How lovely, how commanding !”—“ Heaven,
In every breast hath sown these early seeds
Of love and admiration.”

‘ In the one case our peasant feels, and correctly feels, an admiration, which, unskilled in metaphysics, he cannot vindicate ; in the other he knows the truth, but unskilled in logic, he can neither state nor defend the reasons of it.’

If this analogy is sound, it seems to lead to the principle of election or choice.

It might be unbecoming to urge all that presses on my own mind against the soundness of such views, to which, indeed, I must again advert.

The practical point is—can this be taken as a safe ground for legislation? Can you entrust the whole congregations throughout Scotland, with the power of absolute rejection of every man who does not please them on this assumption of the *just perception of the truth* among the class to whom Dr. Chalmers exclusively refers?

It does look as if Dr. Chalmers here confounded together two things widely different. Most of the expressions in the above passages, (which follow each other in the speech), are very applicable to the instantaneous conviction often produced on the mind of the unlettered, the simple, and the ignorant, as well as on the mind of the careless and the hardened, by the preaching of the Word. But are they accurate in stating, as a general characteristic of human nature—so general that it may be acted upon as the sure foundation of great ecclesiastical changes—the existence of the love of the truth—of the desire to have it faithfully preached—of the perfect discrimination between sound and defective preaching, leading always to a preference to the former, the preference of substance over show—and of the disposition to receive with humility the truth, without which no such discrimination and preference can be formed?

From the adaptation of the gospel to the nature of man, and ‘the response which it finds in the deepest recesses of the moral nature’ of those who had treated the preaching of the cross as foolishness, and believed themselves protected against its influence, we have indeed ample evidence of its divine origin; and thus it is that the haughtiest scoffer, as well as the most ignorant, are often brought to an acknowledgment of the truth, producing conviction, though the mind may shake off the impression—and proving by that internal evidence the truth of the gospel doctrines, whether men receive them or not.

But the strain of reasoning seems to me inapplicable to the subject to which it is by Dr. Chalmers directed.

A *love* of the truth—so general and strong as to be a practical and predominant rule of conduct—is a very different matter from the acknowledgment in the mind of the truth to which Dr. Chalmers refers; and accurate and sound *knowledge* of the *truth*, of which the individual can yet impart no evidence to his Church, is also another and widely different matter.

Is the Church to *act* upon the assumed existence of such a *love* of the truth? Is the Church to rely on that accurate *knowledge* of the truth? when *in the case* in which it is required to rely upon the existence of both, it has no evidence whatever of the opinions, views, motives, and knowledge of its hearers!

Is the Church to admit that such an investigation is beyond its province, and that it is to take both the love of the truth and the knowledge of the truth among its hearers on trust?

There is enough of truth in this view of human nature, and of the response to the truth which will be made by that nature on the part of those who cannot indeed explain how it is that the truth so penetrates through all their self-delusions and refuges, to impart to the Church every encouragement for the performance of its great duty—of preaching the gospel to all men:—Although I doubt if the truth is very accurately illustrated by the reference to the perception of natural

beauty in the passage of Akenside. But to commit to the people the power to elect, or to sit in judgment upon, their spiritual guides on such a theory, seems utterly inconsistent with the duty of faithful dealing with their hearers, without which the objects of the Establishment are not accomplished.

In fact, that which is *claimed* for the people, is a *style and manner* of preaching which may *please* the particular congregation to whom the presentee is proposed—supposing that their rejection is never to proceed upon any other and less definable grounds than this. But an acceptable style of preaching, a mode which may please a congregation on hearing a person once or twice, is a very different thing from ‘a demand for a *pure* ‘gospel,’ ‘not preaching the gospel,’ ‘that the doctrine preached does ‘not give food for the nourishment of the soul.’ Soundness of doctrine—a *sound evangelical mode* of preaching the gospel, are very different things from a *style* or a *manner* of preaching which may not at first please, and may not at first be liked. On the former, it is too much to say, that the objections of the people cannot be made intelligible to their spiritual instructors, or that the Church is not the fitting and proper judge for all classes, high and low, rich and poor, equally. I cannot think that the Church is to surrender its province, as the instructors and guides of their congregations, on these, of all others, the most important points. The preservation of soundness of doctrine—the formation and adoption of a sound evangelical mode of preaching the Word of God, are the very matters on which the Church specially should determine for the guidance of their licentiates, so as to make them wholly independent of popular opinion, and should lead and direct and decide for the people belonging to the Church, especially the people of an Established Church.

If the perception and discernment of the truth is acquired, through the blessing of God, so generally by the ‘home-bred peasantry’ of the country, under the culture of the Church, that they can at once detect the absence of the truth in the presentee whom they are to hear preach, is it to be maintained that the members of Presbytery have not as generally the same discernment and perception and love of the truth; or that the objection which the people justly feel to the disqualifications of the preacher in point of doctrine and mode of preaching the gospel, cannot be understood by the clergymen of the Church, which has so happily cultivated the religious feelings of the country.

Of the *style* which is to please and be taking, the Presbytery cannot judge certainly for others—whether the latter are peers or peasantry. But it is a very different matter, indeed, to say that the voice of numbers is to prevail, so as to reject a man,—not because his doctrine is not sound,—not because his mode of preaching is not most sound,—not because he is not able, sincere, pious, and fervent in his love of the truth, but because his style of preaching does *not happen to please*. To admit that, on such a ground, (supposing *it* to be the ground) the people are to have a right to reject, is not to claim for them the right to judge of soundness of doctrine, or of soundness of preaching,—but to say that they must also be

pleased, that the style, the taste of the preacher must be acceptable to them; in other words, *on such views they ought to have the right of selection*. And all the arguments of Dr. Chalmers on this point, in proposing the Veto in 1833, if sound, and if satisfactory to the Church, ought to be an answer to the first part of that speech in defence of patronage. If the people *must be pleased clearly they ought to choose*.

The opponents of patronage, who alone are consistent in all this discussion, say that they *ought* to have the *choice*. That is intelligible. But such a view Dr. Chalmers disclaims; and the professed object and principle of the Veto maintains the principle of patronage.

But if it is intended to claim for the people solely a right to judge of soundness of doctrine and of preaching, where is the difficulty of the Church judging of these matters, when stated to them, for the people, high or low, rich or poor,—aye, of judging them, not only soundly, but for their good, and for their edification, better than *any* of these classes can judge for themselves? And if that is all that is claimed, then to surrender the power of judgment on such matters, is clearly giving up one of the most important duties and functions of Presbytery.

I say nothing *at present* of the important objection, that, to give, without restriction, a right of rejection, *because* the people ought to be *pleased* whether with the style of preaching, or with doctrine, and, therefore, that the Church ought not to inquire into their reasons, is to entrust them with a power of rejection which they may exercise not merely on *good* grounds, but on the most objectionable, the most unscriptural grounds,—for the exercise of the power is not to be inquired into or reviewed. Whether it is fitting for the Church, to such an extent, to give up its power of judgment, merely because, in some cases, the rejection may be on good and sufficient grounds, is surely well deserving of consideration by those who profess *not to claim for the people the right to choose*. But how it can be denied to be a surrender of the functions of Presbytery, it is difficult to understand.

It is quite essential to come to a correct understanding of the state of the question, in considering the points raised by the resolution of the Assembly.

If the power of choice is not claimed for the people,—if they have no right in the abstract, to say, we must be pleased,—if, as Dr. Chalmers argues, they are *well able to judge* of soundness of doctrine and soundness of preaching,—if it is to secure these results that the will of the people must be consulted and referred to,—if the point is not merely, Whether a man is pleasing to them, but whether he is a sound evangelical preacher, how can it be necessary, for *THAT* object, to say that the objection should not be stated to and judged of by the Church? There is, in truth, no ground of objection so easily stated,—none so palpable—none of the validity of which the Church is so well entitled to judge,—none on which the Church is so well qualified to enter into and understand the objections which may be stated to them,—none surely which the Church ought so peculiarly to decide upon for the good of the

people under their charge, of whom they are the spiritual guides and instructors.

If, in many cases—the Veto Law and Dr. Chalmers assume in all—the people are so well conversant in, and so well able to discern, scriptural truth, as to distinguish at once the preacher who speaks to them in the spirit of the gospel, it is indeed strange that such a people should be totally unable of stating the simple objection, that the presentee *does not so preach*. It is in vain to say that this is an objection which cannot be stated. It is the simplest of all. True, if the people must be *pleased*,—if the mere fact that the people do not like the individual, is a ground for rejection, then they need not be asked for their reasons. But surely it is better at once to say this plainly, and openly to maintain that they should choose their pastor, than put the matter on such a footing.

Considering the objection to which the Veto act, on this ground, is exposed, let us try it by the way the Church has dealt with the question,—What shall be done when the Presbytery is, *jure devoluto*, itself to present, owing to the patron having lost, from any cause, his right for that turn?

By the original regulations of 1834, it was provided, that the Veto should *not* be allowed to be exercised in that event *against the presentee* appointed by the Presbytery. And why? plainly for this reason, that the Presbytery were held to be the proper judges of qualifications and fitness, for the good of the people. It is true, this regulation afforded an unanswerable proof that there was no such fundamental principle or law, as the *right* on the *part of the people to reject* without assigning any reasons,—for it was very plain, that the person chosen by the Presbytery *might happen* to be, *in point of fact*, just as *unacceptable* to the people as one chosen by the original patron. And when the force of this remark was felt in the course of the argument in the Auchterarder Case,—when this was felt to be an unanswerable reply to the assertion, that a peremptory right of rejection was a fundamental law of the Church, it was then proposed, by the Assembly of 1838, in a new set of regulations, to admit the Veto in this case also. So curiously elastic and pliable is this fundamental law of a peremptory right of rejection, that it can be restrained or enlarged, exactly as suits the convenience of the arguments of the day. The exclusion of the Veto in the case of a presentation by the Presbytery was originally most keenly insisted in by its advocates in the Assembly. But when, in the course of the argument in the Auchterarder cause, the force of the remark was felt by all, that its exclusion in that case was a proof, both that there was no absolute right on the part of the people to reject, and that the Church itself did not acknowledge any such right, then the regulation was altered, in a new interim scheme of these rules, and it was proposed that the people should be allowed to veto even the person presented by the Presbytery *jure devoluto*. But this proposal, I understand, has not yet received the assent of the majority of Presbyteries in the Church, and, it is to be hoped, never may.

Now, take this point either way. The original plan of the Veto ex-

cluded the right to reject the person presented by the Presbytery. I apprehend no other ground for this could be assigned, than the sound Presbyterian doctrine, that the Presbytery is the judge of qualifications and fitness; and hence, when *they* selected, the Church held that it was absurd to say that the people could reject the person whom the Church selected as the best for their spiritual interests. In this the Assembly were right. To be sure it shewed that the supposed fundamental law did not exist. But still in principle they were here clearly right. If, again, even in this case, the people are to reject, is not this a plain proof that the person selected is *submitted by the Church, according to the principle of the Veto, to the judgment and approval of the people*, since here they do directly pronounce on the *very selection for the particular charge which the Church has made?* But the people are only exercising the same power in the very same manner as when the presentee of the patron is submitted to them. Hence this case is a clear proof that the Veto is wholly irreconcilable with the function and duty of the Church to decide on all questions as to qualifications.

Doubtless, if the Veto is to rest on the ground, that the people are, as Dr. Chalmers says, *patrons*; and hence that the people must be *pleased*, that is, *must concur* in the *original selection*, that principle strikes against the Presbytery presentation as much as against the original patron's. But *that* is a doctrine that one-half of the supporters of the Veto disclaim, and that leads necessarily, on principle, to popular election; for how, in that view, can patronage, that is, the right to select by one man, be defended, if the whole congregation, or communicants, have a right, (which in point of principle must on that view be paramount to the right of selection), to be satisfied with the choice? In that view, the right clearly leads to the principle of popular election.

The question respecting the Veto by the people in the case of a presentation by the Presbytery, is a point of great importance in considering the principle of the scheme.

If a rejection by the people is to infer a forfeiture of the *patron's* right, for which the Church now stands out, (and which is indeed a part of the plan, upon the assumption, that acceptableness is qualification), it is plain, that in most cases, if the patron chooses to exercise his nominal right of selection, the presentation will by the Veto be thrown into the hands of the Presbytery. The question then will often occur.

But it is not chiefly on that account, viz. that the Presbytery will often present, that I look to this question as an important point in the argument. It appears to involve the consideration of principles which very seriously affect the whole plan.

So far as one can ascertain the principles upon which the scheme of a Veto on nomination by the people (apart from all questions as to competency) is based, it rests *either* upon the doctrine, that their concurrence in and assent to the choice of their pastor, and their right to dissent is part of their Christian privileges and rights as members of the Church of Christ, and essential in order to secure their interest in the work of the ministry, *or* that it is *necessary*, for the success of the ministry, 'for the Christian good of the people,' that they should feel and be

satisfied that they are to be edified and benefited by the individual, between whom and themselves it is proposed to constitute the pastoral relation; that Christianity is a religion 'the assenting testimony to' which, as an object of instant discernment, might issue from the deep 'recesses of their moral nature on the part of men, with whom it is a 'felt reality,' but who could not state why it is so in the case of one preacher, and why not in the case of another,—and hence, that to provide for this important and universal principle, which must be observed in the economy of any system of ministry, the people *must have the right to reject, without inquiry* as to their reasons or feelings upon the subject, *because* the matter may not be capable of explanation at all.

Now, on either of these views, it is quite immaterial whether the selection is to be made by the patron or by the Presbytery. The motives directing the selection may be most excellent, nay, the choice also may be a very good one—quite unexceptionable—still, if the people do not consent to the choice, or if they think they are not to be edified—if this assenting testimony is not felt in 'the deep recesses of 'their moral nature' to the doctrine preached,—in short, in either view of the matter, it would be a violation of their privileges, or against 'their Christian good,' that they should not have the power to reject the individual. The selection by the Presbytery could not, in any degree, secure against the *fact*, that the individual might not so preach as, in the feeling and opinion of the people, to edify them.

Hence, upon either view of this scheme or principle, (viz. that the people should have a veto on the nomination of the person intended to be their pastor), it necessarily follows, that they ought to possess it just as much when the Presbytery present as when a patron presents.

But observe the vast difference in principle. In the *latter* case, disguise the matter as you please, the plan in substance, and, we know, in practical operation, is to give the people their choice, and to destroy patronage. This is its recommendation with many of the advocates of the recent measures of the Assembly. And this is in truth the only answer which can be given to the objection which Dr. Muir has so authoritatively urged in last Assembly. The Veto secures a choice to the people, and therefore the case is the same, so far as respects the Church Courts, it may be argued, as if the people at once elected. But none of its advocates take this ground of defence, or will admit (what is however the recommendation of the Veto to many of them) that it does necessarily lead to popular election. But in the *other* case, the Church—the spiritual instructors and guides of the people, *select* an individual *for the particular charge*—and then the people sit in judgment upon the choice of the Presbytery, and may reject the very person whom the latter have specially chosen as, in their knowledge and experience of him, eminently qualified for that parish.

If that result is excluded in the case of a presentation by the Presbytery,—if it is thought that it would be a scandal utterly derogatory to the dignity of the Church, and totally subversive both of the functions of the Church, and its relation to the Hearers of the Word, the ground upon which the Veto is in this case excluded, must be, as I

have stated, the doctrine that the Church is both qualified and bound to decide on the question of qualification and fitness, and cannot admit of a final judgment by the people, the reasons of which the Church is not even to be permitted to know. But on that view, the evils of, and the objections in principle to, the acknowledgment of the will of the people as conclusive, and excluding the right of the Church to inquire and judge, are the same, whether a patron or the Presbytery select.

If, on the other hand, the Veto is to be allowed even as against the selection and choice of the Presbytery, and if the people may equally put their Veto on any one whom the Presbytery chooses, how can it be denied that the principle of the Veto does deprive Presbyteries of one of their most sacred functions, and that in all cases the scheme of the Veto does submit the person, selected by those who have the right to select, to the *judgment of the people for approval or rejection?*

Such a scheme appears to be opposed to every sound view which can be taken of the authority and functions of a Church, and most assuredly is subversive of the authority and jurisdiction of Presbyteries.

It was not mere matter of arbitrary and indifferent arrangement by the Legislature when Collation was given by statute to the Established Church. The Legislature might of course have taken a different view of the matter, but they would have framed a scheme of a Church inconsistent with many of the most important religious views connected with the principle of any Establishment. And on this important point the Legislature of Scotland from the first took but one view of the subject.

One of the first acts of Parliament, after the Reformation, was to declare that the *trial and admission of ministers should be in the power of the Church*—the presentation being declared to remain with patrons: And when Presbytery was established in 1592, it was declared in the words already quoted, that presentations were to be directed to Presbyteries, *with full powers to give collation thereupon*.

Thus the Legislature from the first acknowledged, that the trial and admission of the persons to whom the cure of souls should be entrusted, must reside in *the Church*—not, certainly, as an immaterial matter in the ecclesiastical arrangements of an Established Church, but as a point of high and sacred principle, which it was necessary to observe for the interests of religion.

Now, however, in *every* case in which the Veto is to be exercised, the person selected, *is by the Church submitted to the judgment and will of the people*; and if the people reject, the Church, (which as yet has never tried the person), can know nothing further of him, for they cannot inquire what are the reasons or notions of their people—that is a matter **BEYOND THE PROVINCE OF THE CHURCH!** They cannot judge of their reasons. The mere **WILL OF THE PEOPLE IS CONCLUSIVE AGAINST THE CHURCH**—and that will, exercised in rejecting the person presented, *is acknowledged by the Church* to be paramount, infallible, and irresponsible,—for it is the Church which gives the people this absolute and irresponsible power.

The distinction is great between such a plan in a Dissenting, and in an Established, Church, embracing every parochial minister in the kingdom.

Among such bodies as the former, much must be sacrificed in order to keep up and maintain their peculiar congregations. These concessions may even form a bond of union among themselves, as distinguishing them from the Establishment, and tend to keep up, in *their* case, the influence of the minister so approved of, to whom it is optional with them to adhere or not. If they do not, in the opinion of the members, answer in practice, they can be altered at pleasure. The minister of a private Dissenting congregation has no status in the country: He has no legal jurisdiction: He has no authority in any case, (however he may be chosen), except what it is voluntary on the part of the hearers to admit. Others are not called upon to regard the clergy of such associations as invested with any public authority or status. They are only known by individuals as members of the clerical profession. The collective clergy of such a body have no *status* or place in the country,—have no direct influence over the feelings of the country respecting the Church at large. Their authority and influence over their hearers is not one of the public arrangements of the social system designed to affect national character and to promote the interests of religion. It is wholly an accident in society. Their body may be small, almost unknown, except to the members of the persuasion. Public opinion does not look to them—is not regulated or influenced by them in any perceptible degree; and, at all events, if the result is, from any cause, injurious, the evil cannot be avoided,—for their system cannot be interfered with or regulated.

But the authority of the Established Church in public estimation—the relative position of the Established Church in regard to influence and authority over its hearers—is one of the most important of all matters which can find place in the economy of the social system. The interests of religion may greatly depend upon the manner in which the proper authority of the Established Church, in its relation to the people as their instructors and teachers, is preserved and maintained.

But the result, to which I am now requesting your attention, appears to be wholly irreconcilable with the maintenance of that relation, and with the preservation of the authority and influence of that Church, which shall submit to the will and rejection of the Hearers of the Word, as a paramount, irreversible, and irresponsible decision, which it is beyond the province and functions of the Church to consider, the qualifications of the persons whom the Church alone ought to try in regard to their fitness for the CHARGE OF THE PEOPLE.

2. This line of observation leads me to the *second* great ecclesiastical objection to this measure, viz. that it wholly destroys the proper relation of the Church to the people under them, in so far as it acknowledges, in the opinion, and by the admission of the Church, the *Hearers*

of the Word to be *qualified judges of their instructors and teachers* in holy things, and thereby diminishes the authority of the Church over its people, and impairs the docility and disposition to receive the word of truth from its ministers, which is the most important point in national character for an establishment to promote.

This has always appeared to me to be one of the gravest and most serious objections to the scheme, both in point of principle and practical consequences. It is one of the strongest objections, indeed, to popular election, as well as to the plan of leaving the religious teachers of a country to be supplied on the Voluntary principle. But the objection applies in substance and principle even more directly and more strongly to the Veto, or any similar measure, sanctioned by an *Established Church*, as the *proper* position in which the Hearers of the Word should stand to their Teachers.

The principle of the Veto is this:—The right of patronage or presentation being left untouched—being adhered to professedly as in itself right, and to be continued, the Church, by whom the presentees are to be tried and admitted, declare that they think the *opinion* and *will* of the people ought to be *satisfied*, and that it is right and fitting and necessary for the ‘Christian good of the people’—for the success and efficacy of a gospel ministry among them—that the individual shall in the first instance be *tried, judged of, and approved of by the* people, in the exercise of a power of rejection which, the Church say, the people have, or ought to have, without controul or check.

The character of the position which the Church mean that the people shall occupy in the exercise of the Veto, and the nature of the right of judgment implied in the Veto, is most explicitly and candidly explained by Mr. Candlish, in his speech in the Commission in August, which I have already quoted. The real nature of the case is at once and most openly stated by him.

The Veto is then a declaration by the Church, that the majority of their hearers are, in the first instance, the best judges of the persons fitted to be their religious instructors, and that their decision, in the event at least of rejection, should be final and conclusive. Disguise it as its advocates may, this is the practical effect of the declaration of the Church.

I object to the measure, because such a declaration, untrue as it regards the hearers to whom it is addressed, is inconsistent with the relative position of a Christian church to the people under its superintendence, and practically most injurious, alike to the authority of the Church and its pastors, and to the minds and character of the people under their charge.

It may be very well for those who avowedly wish to abolish patronage, or who advocate the Voluntary principle, to treat as *comparatively* unimportant this view of the subject. But as yet we are not dealing with either of these opinions. According to the measure proposed to the Government, (so far as it contains any definite proposal), patronage is to subsist as an unquestionable right, and as the constitutional arrangement for the *selection and nomination of presentees*.

But the Church declares, that the persons presented *ought* to be sub-

mitted to congregations for their approval and judgment, as, in the first instance, the best qualified to judge who are fit to be their spiritual pastors, and that rejection by the people shall be final.

It is most material to keep the exact state of the question before the mind. We are not discussing the propriety and fitness of this latitude of judgment, when a person is to select for himself the church to which he is to belong; or, if he lives in a great city, where there are a number of clergymen, the propriety of leaving to every one to select the preacher whom he likes best. The right of conscience decides the former of these points; the arrangements of society equally determine the latter. But it is the principle which is to be recognized, viz. that the Established Church, which is instituted for society at large, and for all who do not choose to occupy the situation of Dissenters, shall declare and hold the whole people,* necessarily under their care and superintendence, to be the best qualified, in the first instance, to decide on the qualifications of their intended pastor,—so that he must be submitted to their judgment,—and that their rejection, simply by a peremptory dissent, ought to be final; *because, as they are the best judges of the pastor who will edify and instruct them, they ought not to be called on to give an account to the Church of the reasons for their supreme decision.*

Is this a sound estimate on scriptural grounds, of the character of the *Hearers of the Word*, on which *the Church is entitled to act*? Is it for the good of the people and consistent with Bible truth, that the Church should proclaim, that in every case the majority of each congregation, or each roll of communicants, do possess the qualifications,—are actuated by the temper of mind,—governed by the principles which render them the proper judges of the fitness and qualifications of the individual who is to be appointed to the ministry and cure of souls in each charge, so that in all the parishes of the kingdom, equally and universally, without reference to the circumstances and character and knowledge and opinions of any congregation, the right to Veto is to prevail and take effect on every roll of communicants. If such is indeed the state of the knowledge and love of the Truth among the whole congregations of all the parishes in Scotland, town and country, manufacturing and agricultural, so as to make this a safe and true estimate of them on which to commit to them this irresponsible power, what an argument against interfering with that system of providing for the ministers and teachers of the word, which, under the blessing of God, must have been mainly instrumental in producing this high standard at once of Christian knowledge and pious feeling.

* I use the term 'people' here, as it is used both in the Veto law itself, and in all the speeches on the subject, without recurring in each sentence to the distinction drawn between male heads of families and other communicants, or the rest of the congregation. In point of fact, the presentee is practically submitted to the congregation at large; for it is needless to repeat that the judgment and determination of the congregation at large will, in almost every instance, decide the decision of the majority of the male heads of families.

Dr. Chalmers says,—All *sound philosophy* supports the conclusion that there may be many decided and just repugnancies in the mind of illiterate but Christian men, of which they are unable to give any account. I should wish to see the Veto defended on grounds consistent with scriptural views of human nature, and with the estimate the Church takes, and is bound to take, of the characters and dispositions of men. I do not admire the analogy which Dr. Chalmers draws between the vague perception of natural beauty in the mind of uncultivated men, ‘unable to assign the philosophy of taste,’ and the ‘discernment of the gospel,’ ‘the just perception of truth,’ even though that discernment of the gospel is supposed to be peculiar to ‘a home-bred peasantry.’

I believe that universal experience in *every* rank equally testifies that the truth is unpalatable to human nature;—and that the nature of man, —corrupt, averse to and at enmity with the truth, prone to errors and heresies from the very corruption of his nature, anxious in many cases for the style of preaching which will fortify him in his own delusions,—often glad, amid the innumerable influences of the Tempter on the heart, to resort to a style of preaching which gives only the most fervent views of justification by faith, without dwelling adequately on the practical vices which sanctification must gradually correct and eradicate out of the corrupt heart;—is not fit to be trusted with the task of decision on the qualifications of the spiritual instructors of the whole congregations in the country.

We are discussing, be it remembered, on what estimate of human nature it is safe to legislate for the whole country—what estimate of human nature is the Church entitled, in *faithful dealing with the people under their care*, to put forth, when she is to propose the arrangements on which the selection of their teachers and guides is to depend. We are not to look to the characters of individuals, or the characters *often* met with in *classes* of persons: or that may still mark many country congregations. The point is,—On what estimate of human nature ought the Church to proceed in dealing with the people at large under their care?

In the course of his evidence before the Patronage Committee in 1834, when it was pressed upon Lord Moncreiff, in consequence of the earnest and strong opinion which he had given against the proposals for abolishing the law of patronage, by some member of the Committee, why the communicants should not be allowed to *choose* their ministers, when they were entrusted with political franchises of the highest importance,* He said most justly,—‘I am most decidedly of opinion that the *things are totally diverse and separate*, and that the principles which apply to the one cannot with any justice be applied to the other at all. I stated the reason of this before. A minister is not appointed to represent

* Patronage Evidence, p. 215.

‘ the wishes or the views, the private interests or the opinions, of the people, as a Member of Parliament is to a certain degree ; but, on the contrary, he is appointed for the purpose of directing the people and instructing the people as to what they shall think, and what they shall do for their best interests, in time and through eternity. That is a very different function from the function of a Member of Parliament, who comes into Parliament to represent the particular views and interests of the constituents who elect him, or at least to contribute to represent the whole views and interests of the people at large.’

And in another place, he says, ‘ And I am humbly, but very decidedly of opinion, that under any definition of that mode of appointment,’ (popular election), ‘ which I have yet heard, it would be full of danger to the best interests, and perhaps to the existence of the Church of Scotland. In the first place, I think that it is altogether wrong in principle. We cannot transfer to this peculiar and very sacred subject, rules or principles, which may be sound and right, and which I may think to be sound and right in mere matters of civil politics. A man who is to be appointed a minister of religion for a particular parish is not to be placed there to represent the opinions or the interests or the views of the persons over whom he is set as a minister : Quite the reverse ; he is placed there, under the sanctions of the most solemn oaths, to teach the people what they ought to think, and what they ought to do.’

In these remarks there is much practical wisdom, and there is also that sound estimate of human nature on which alone any Christian church is warranted to deal with the people under their charge.

No doubt Lord Moncreiff thought that these considerations did not apply to the scheme of submitting to the judgment of the congregation the individual named by the presentation. And among other reasons, very much from the persuasion, which had taken great hold of his mind, and which he distinctly expressed,—that the power contained in the right of Veto would be seldom called into action,—that the people would be slow to dissent, and, still more, would seldom, if ever, exercise power indirectly to attain the selection or choice,—that the knowledge that such a power existed, would operate favourably on the selection by patrons, and that that would be all the effect of it, except in rare cases, and all that we should hear of it ! If the scheme leads directly, as I shall afterwards show, to popular election, or to a choice out of a list of candidates, then the remarks I have now quoted apply to the Veto scheme. And, in *principle*, in practical truth, it is most manifest that the reasons which he states apply to a judgment upon the individuals submitted to the opinion of the communicants, just as much as if they are also to select.

What is the view which the Church takes of the relative position of those ‘ who are to preach the word of God,’ and of those ‘ who hear the word preached ?’

It is emphatically said in the Larger Catechism, (Ans. 159,) ‘ They that are called to labour in the ministry of the word are to preach sound doctrine diligently, in season and out of season ; plain-

ly, not in the enticing words of man's wisdom, but in demonstration of the Spirit and of power; faithfully, making known the whole counsel of God; wisely, applying themselves to the necessities and capacities of the hearers; zealously, with fervent love to God and the souls of his people; sincerely aiming at his glory and their conversion, edification, and salvation.' And again—(Ans. 160,) 'It is required of those that *hear* the word preached, that they attend to it with diligence, preparation, and prayer; examine what they hear by the scriptures, *receive the truth with faith, love, meekness, and readiness of mind*, as the word of God; meditate and confer of it; hide it in their hearts, and bring forth the fruit of it in their lives.'

It is impossible for the people to estimate too highly the authority with which the truth is preached to them. It is true they are to *receive it not as the word of men*, and are not to ascribe any power or efficacy to those who preach the word: But they are to receive it 'with all readiness of mind.' And the suitable disposition of mind cannot exist, if those who are to be instructed and warned and reprov'd are taught by the Church to look on themselves as qualified to sit in *judgment*, and receive from the Church, or possess as part of their Christian privileges, the right to decide, on the gifts and qualifications of those who are educated and set apart to be their spiritual instructors, so to be entitled to reject without review all whom they do not like.

And when all the varied characters of the congregations, of all the churches throughout the country, are considered, it does seem to me to be a grievous error to hold them all up as qualified in the *opinion of the Church*, so to decide on the qualifications and fitness of their pastors, and to recognise such a decision as a fitting and right procedure in a scriptural church.

One difference there is, and not unimportant, between the state of the national Church and Dissenting congregations. These are not, generally speaking, formed so much by the accident of birth, residence, &c., as the congregations of the Established Church. A large proportion often are men decidedly of religious character, making their choice in manhood or mature life, of the persuasion to which they choose to belong. It does not follow that it is for their good to choose their spiritual pastors,—and we know to what restraints that choice has been in many of these bodies wisely subjected. But still it is to be remembered that the congregations of the Establishment, and the rolls of the communicants of the same, embrace, necessarily, even a far greater variety of human characters:—So many belong to these congregations from the effects of birth and residence in the parish,—from resort to the Established Church in early life,—from the influence of and deference to the opinions of others,—from the feeling of respectability and decorum in life which communion with the Established Church carries with it, and from the sort of status thereby acquired in the neighbourhood in which the party lives.

The Veto law assumes that the majority of every such congregation or roll of communicants are, in every case, the best judges, in the first

instance, of their spiritual guides, qualified to decide on the fitness of the person who should be placed over them, and are, in all instances, to be guided solely by motives of which the Church can approve.

Dr. Chalmers has already indicated his distrust of the estimate of human nature, which, in the fervour of declamation, his poetical genius has so eloquently painted, and has proposed, in the calmer consideration of the subject, which passed through his mind in the short interval between the Assembly and the publication of his speech, limitations of the Veto, which, in truth, give up the most important point in the question,—exactly as, in 1833, he provided even a more general and important proviso, in order to enable the Presbytery to ascertain if the rejection *truly proceeded on any objections personal to the presentee*.

But the whole view of the Veto is false, if this estimate of human nature, and of its just discernment, and perception, and innate love of gospel truth, is not *true*,—true on the views which the Scriptures take of human nature,—true, as a practical and safe guide in the determination of ministerial qualifications and fitness,—true as an universal rule on which to found the laws of an Established Church for the whole country.

If any limitations on the right to reject are necessary,—if inquiry into the grounds of rejection must be allowed, in order to disallow votes not truly founded on good objections to the individuals,—then the whole foundation of the theory on which the plan proceeds is false and fallacious, the estimate of human nature untrue and unsafe,—and on the very acknowledgment contained both in Dr. Chalmers's motion in 1833, and in the Note to his recent Speech, the proper position for the people ought to be that of objectors, and of the Church on all points and to all effects that of judges,—and the only judges of the qualifications of those to whom the spiritual charge of cures is to be entrusted. The proposal also of the limitations or restrictions stated by Dr. Chalmers is a complete answer to the first part of his Note, where he tries to make out that the patron and the people together share the presentation. In that case, all that the Presbytery would have to do, would be to reject unfit persons; but until the parties agreed, they would have nothing to say as to individuals proposed by either party. But the patron's presentation does necessarily bestow a right,—that right Dr. Chalmers thinks it is most hazardous to allow the people to defeat by a rejection, the grounds of which the Church may not, when necessary, inquire into and decide upon; that is, review the judgment of the people. Hence, it is plain that the Veto is an exercise of a power of judgment on the qualifications of those who are to enter the ministry. The people cannot pass any man into the ministry whom the Presbytery may reject; that is true: But they conclusively reject all whom they choose to Veto,—and if the only redress is to inquire into the grounds of the rejection by a process before the Presbytery, then it is only the more plain that in principle, (what is plain to the common apprehension of men,) the *power of judgment* is by the Veto abandoned by the Presbytery, and committed to the people, when no power of review is vested in the Presbytery.

Is the picture which Dr. Chalmers's genius has drawn of human na-

ture, sound in philosophy, sound in Christian doctrine? Is he warranted in maintaining that the Church ought, on that estimate, to commit the power in question to the congregations of the Church? If not—and he plainly distrusts, after all, its soundness,—of what avail for practical ends are such analogies between the untutored perception of natural beauty, and the perception of gospel truth? Is it in the *natural*, the *uninstructed*, the *unregenerate* mind of man, that this discernment of the gospel is found? No one has more powerfully pressed the opposite view of gospel truth than Dr. Chalmers. The analogy, then, between the perception of natural beauty and of gospel truth is not sound. This discernment of gospel truth may be found, and so Dr. Chalmers must mean, among those who are acquainted with its truths—well taught in its doctrines—and fully able, therefore, to state so simple an objection as defect in doctrine. But the prevalent love of the truth is a very different matter. I believe it would be safer to trust the congregations with the original right of selection; for, in that case, *talent*—great and powerful talent, will often prevail,—the risk of false doctrine, and of an erroneous style of preaching, is less, where talent is devoted to the study,—and both are always better known to and more easily ascertained by the Presbytery in regard to a young man of talent. But the risk of rejection of a faithful sincere preacher, of one well fitted to correct the unfortunate effects of previous defects and errors in the preaching and ministrations of the former incumbent,—to bring down spiritual pride, when that has been long and fatally encouraged,—to break in upon indifference and worldly-mindedness, when these have been fostered into a fatal security, from which many do not wish to be uncomfortably roused,—the *rejection*, in short, of the person well qualified and well fitted (in the opinion even of the Presbytery) for the *very* charge in question,—of a person well adapted to meet and encounter the very peculiarities and faults and characters of the congregation to which he may have been named,—is one which is pre-eminently run in the operation of the Veto, just because human nature is corrupt, and at enmity with the word of God.

To legislate for the congregations of the Established Church throughout the country, on an opposite estimate and view of human nature, appears (I say so with the utmost respect) to be a fatal error on the part of the Church, which is to instruct and improve and enlighten and warn their Hearers, in the character, and with the authority, of the ambassadors of the gospel, and under the sanction of its sacred truths.

Can the Church admit that the majority of each roll of communicants, being male heads of families (they are taken as representing the will of the congregation), are fitted to be entrusted with the province of judgment on the qualifications and fitness of their pastors? That a decision made by numbers is so generally to be right and sound, proceeding on Christian motives and sound views and love of the truth, that the judgment of the majority is to be taken and declared by the Church to be satisfactory and conclusive, without the right of inquiry, or the power of appeal? I cannot think that the Established Church can declare that such a rule proceeds on a true and Scriptural

view of human nature,—a view which, the most ordinary *experience* tells us, would be a most unsafe and unsatisfactory ground for the determination of such a matter. Such a declaration seems to be inconsistent with the truths which the Church is bound to tell their hearers, whether agreeable to them or not.

Dr. Chalmers, in justifying the view he takes of the fitness of mankind for such a decision, speaks of the ‘unlettered men of a *rustic* congregation,’—‘of a home-bred peasantry,’ and forgets how many congregations are not of that character. I will grant to him—sincerely admit to him—that a congregation of a proper country parish, well instructed in the truths of the gospel,—the grave, steady, pious peasantry of a rural parish in Scotland, will in some cases be better qualified for the exercise of the power he wishes to commit to every congregation, than many congregations *wholly of the upper ranks*. I cordially admit this. But granting this most fully, I believe the estimate of human nature is most unsound and unsafe as to *any* congregation, and entrusts to them a power which, for their own good, and for the good of the Church, they ought not to enjoy. To go farther,—to hold that the peasantry of Scotland, in other words, the whole lower orders throughout the country,—for the question relates to a plan *applicable to the whole country*,—are fitted for this high and sacred function, seems to me to apply to them the most pernicious flattery, and a stimulant to the greatest spiritual pride. It is ‘the *honest* demand of the common people for a *pure* gospel,’ which Dr. Chalmers thinks ought to be conclusive for entrusting them with the power of rejection, and in his speech he does not admit that the voice of the people can ever be other than such a demand. But can the Church declare that the will of the congregation is always the *honest* demand for a *pure* gospel? If that were so, the object of the gospel ministry would indeed be far advanced already among the people of the country.

Dr. Chalmers, in his last speech, following up the train of observations already quoted, says, ‘I would take the verdict of a congregation, just as I take the verdict of a jury, without reasons. Their judgment is what I want, not the grounds of their judgment. Give me the aggregate will; and tell me only that it is founded on the aggregate conscience of a people, *who love their Bibles*, and to *whom the preaching of the cross is precious*; and to the expression of *that* will, to the voice of the collective mind of *that* people, not as sitting in judgment on the minor insignificancies of mode and circumstance, and things of external observation, but as sitting in judgment on the great subject matter of the truth as it is in Jesus—to such a voice *coming in the spirit, and with the desires of moral earnestness from such a people*, I for one would yield the profoundest reverence.’ All this supposed, and few will not be disposed to bow with reverence, in the individual case, to one of the most authoritative expressions of human opinion and will—because founded solely upon the knowledge and the love of the truth in the highest degree in which they can exist—and with the influence of every extraneous consideration completely excluded. It is this view of a congregation which the advocates of an absolute right of Veto always depict, and particularly of a pious con-

gregation supposed to be chiefly of the lower classes, and of a rustic congregation. But the Church proposes to legislate for all classes, and it adopts a principle which is to include all. It is to legislate too for all the congregations of the country, among many of whom there may be hardly any of the home-bred peasantry, not one trace of a rustic congregation. It really will not do, in defending the Veto, to draw an ideal picture of such a congregation as a pious and ardent minister loves to delineate, the purity of whose motives, and the fervour of whose devotional feelings he paints, with all the warmth which such a delineation may call forth. There may exist such congregations. I fully believe it. But who is to guarantee even that fact? And who, above all, is to guarantee the certainty that different motives will not operate, when the people are to exercise a power so well fitted to disturb the purity of motive, and to engender very different feelings?

The truth is, that all these grounds for defending the Veto are manifestly unsound—at variance with experience, and with the estimate of man which the gospel compels us to take.

The only consistent ground is that which Dr. Chalmers professes to disclaim, viz. that the right to reject the intended minister, in other words, the necessity of their consent in order to form the pastoral relation, is part of the rights and privileges of the people in the Church of Christ, as a distinct body from the ministers, to whom, as the people in the Church, the power and responsible duty of trying the spirits is committed, and as to whose fitness for the duty it is not the province of the Church to inquire, for the privilege belongs to them by gift from the Divine Founder of the Church.

That view of the case avoids all the difficulties to which the argument of Dr. Chalmers is exposed. But it seems impossible, on any ground of experience or Scriptural truth, to maintain either that the whole hearers of the word have such a love for the truth, that they may be safely trusted with the irresponsible power of deciding in the first instance on the qualifications of their spiritual guides, and hence that it is quite superfluous to inquire into, or for the Church to review, the grounds and motives of their decision; or, on the other hand, that the discernment and love of the truth is a matter of such just and certain perception in the mind, that it may be compared to the perception of natural beauty, by the untutored mind, and the reasons therefore for the decision may be those, which the individual cannot himself explain, and which the Church should not investigate. Either view seems a singular estimate for a Church to take of the hearers of the word.

In 1833, in bringing forward the first scheme of the Veto, Dr. Chalmers, in defending patronage, and in exposing ‘the *delusion* that ‘our Church is necessarily to become more Christian by the constitution ‘of it becoming more popular,’* went on to say, with his usual power, ‘I do not see how the one is an unfailing corollary to the other, or how

* Speeches, 1833, Appendix, p. 4.

'you are to get quit of the evils incidental, I fear, to all sorts of human patronage, merely by multiplying the number of human patrons. Multiplication, I ever understood, told only on the amount of the things to which it was applied, and not upon the character or kind of them. It results in a greater number of apples, but has no power to change them into apricots. Now, my fear is, that, if utterly powerless for the transmutation of fruit, it is just as powerless for the transmutation of humanity. Our arithmetical reformers, who look to this mere arithmetic of theirs for the revival of our Church, are looking, I fear, to the wrong quarter for our coming regeneration. They but exchange one human confidence for another, placing it on a broader and more extended basis than before, but still on a basis of earthliness. It is a confidence which I cannot share in, nor do I comprehend how it is, that, with minds so firmly, so undoubtingly made up, they count on a mere enlargement of the ecclesiastical franchise as the high road to the spiritual enlargement of the Church, to the increase and mighty resurrection of its vital godliness.'

And, again, after alluding to the state of many congregations and separate Churches, which had fallen into much error and practical ungodliness with the 'grand panacea of Popular Election,'* he continued,—'But I hold it a far more serious inadvertency than this, that so many of my best friends should be looking, and with an anticipation quite unwavering and unclouded, to a sort of latter-day glory, and that on the stepping-stone of a mere constitutional reform,—a transference of power from the patrons to the people, or from one portion of our depraved human nature to another. Let them have a care, in all this unquailing confidence of theirs, lest they should become unmindful of the rock whence both patrons and people are hewn, lest they should be forgetting their orthodoxy and forgetting their Bibles.'

'This does not supersede the question of the best constitution for the appointment of ministers to parishes, while it may help, I do think, to remove an obscuration which rests upon it. The truth is, that a prevalent error on all the sides of the controversy respecting the better and the worse systems of patronage, is, that we are perpetually imagining a corrupt exercise of the power in the party with whom our antagonists are for vesting it; while we overlook the equal possibility of a corrupt exercise in the party with whom we are for vesting it ourselves. The enemies of the present system have constantly presented to their minds the idea of a reckless and unprincipled patron, a case which has been too often verified. When, in mitigation of the evil, it is alleged that the Church have the power—the unlimited power, as I think—of rejecting the presentee; this is met by the conception of a Presbytery or a General Assembly, actuated by a haughty contempt for the popular taste, even when that taste is in unison with all that is most characteristic and peculiar in the gospel of Jesus Christ; and this certainly is a case which may also be veri-

* L. C. p. 5.

‘fied. Well, then, to make good our escape from these polluted quarters, let us suppose this power, both in the patron and the Church, to be done away, and an authority paramount to either vested in the suffrages of the people, is it now, I would ask, that every man of Christian integrity, or even of common observation,—is it now that we shall have found a secure asylum for the cause of truth and piety, in a region of ethereal purity, of incorrupt and heaven-born principle! I speak not of popular ignorance; but I speak of the wrong and the wayward influences which might so easily be brought to bear on the popular will. I speak of their extreme facility to the solicitations of interested applicants, or urgent and interested advisers; and of the wildfire rapidity wherewith a petition, borne from house to house, and prosecuted with address and activity through a parish, might obtain a majority of signatures. It is very true, there might be, and often is, a graceless patron, and it is just as true that there might be a graceless Presbytery; but I would ask the advocates of universal suffrage, if there be no chance or possibility whatever, when their panacea comes to be applied, that the appointment of a minister may fall into the hands of a graceless population? But, apart from their want of grace, and with a much higher respect for the popular understanding than, I believe, is generally entertained, I do apprehend them exceedingly liable to be precipitated or betrayed into an unfortunate appointment through downright gullability, inasmuch, that the so-called popular election might just resolve itself into the oligarchy of a few, or perhaps into the sovereign and directing will of but one individual. A people occupied with labour, not in circumstances for a leisurely and comprehensive and complete view of all the parts of a subject; withal, open to sudden impulses, and to be overborne by the influence of candidates, and the friends of candidates, are exceedingly apt to make a wrong outset, and irrecoverably commit themselves to an unfortunate choice. I should not anticipate a good series of appointments by laying the first step in the choice of ministers upon the congregation,—the way, I do think, to begin with anarchy, and to end in virtual patronage. I think there is good reason why, in every instance, there should, whether express or implied, be a gregarious consent; but, in no instance, I apprehend, is it good that the initial movement should be a gregarious one.’

This is severe, but it is not an overcharged description. But, can it really be said, that those so unfit to be trusted with the power of *selection*, can yet be considered in the eye of the Church, and in the light of scriptural truth, as infallible in *rejection and disapproval*;—that their capacity to judge of the person *submitted to them* will be sure, sound, safe, and unerring, to the extent, at least, of warranting the Church to commit to them a final power of rejection, when we are told that they are so utterly unfit to judge of the man, who *offers himself*, and whom they propose to select:—that all the materials of hasty and unthinking opinion, or of unjust and wayward impressions which unfit for choice, disappear the moment the Church submits an individual to the opinion of the parish. This seems to me to be inconceivable on any view of hu-

man nature. Of course it follows, on Dr. Chalmers's own showing, that if the Veto leads to popular selection, or to a choice out of a list of candidates, and thus operates in the way in which its framers did not anticipate or intend, the measure is then exposed to all the objections so powerfully urged by Dr. Chalmers against popular election.

In contrast with the views which Dr. Chalmers presents of the qualifications of the people for exercising the power committed to them, I may here quote the very important testimony of the venerable Professor of Divinity at Glasgow, long a minister first in a country, and then in a town parish, who has been always a decided opponent of patronage, and is one of the most distinguished ornaments of the 'popular party' in the Church—of the Church itself.

Dr. M'Gill had another plan, viz. of abolishing patronage, and of requiring a call, combining, with that, the means of giving proper weight to the wishes of the more educated and intelligent portion of the parish, and of those who had a *permanent* interest in the parish. The Veto he opposed in 1833, although compelled to differ from those with whom he generally acted, and in explaining his grounds of objection to the Patronage Committee in 1834, the following important remarks occur on the qualifications of communicants, and the propriety of entrusting to the mass of communicants indiscriminately this important privilege. To those who know Dr. M'Gill's amiable, kind, and benevolent character, and the consistency with which for half a century he has maintained the old opinions of the popular side of the Church, the remarks I am to quote will convey impressively how strong the conviction of the impropriety of the measure must have been on his mind, before he would have brought out the view he states.

'Or let us suppose that they choose to exercise the *Veto* which is proposed; we have to consider to whom that important right is committed; they are the communicants of the congregation in *one general mass*. Now, according to my opinion, this is giving to the *labouring classes* the whole power of rejecting the minister; and being exercised without the obligation of stating reasons, may be exercised in a manner very injurious to the other classes of the congregation, with whom, from their permanent residence, the minister must be most lastingly connected. This I think both unjust, and not the mode most favourable to the best interests either of the particular parish, or generally of the Church and the clergy. And I am convinced, from my knowledge of the character of the people in the district where I reside, that it is in vain to think that they are to be satisfied with the idea of a negative call. They will use their *Veto* very soon, and they will use it sometimes in a way, I fear, not calculated to promote tranquillity. I conceive that to place the *Veto* in the majority of the communicants, voting in *cumulo*, is unwise in another point of view; the qualifications that fit a man to be a communicant do not seem to me to fit a person for judging of the qualifications of a minister. I conceive, though I may be mistaken, but such are my views, and which I have always acted upon, that where I see a serious mind, a person convinced of sin, and willing to accept of the Saviour, and submit

‘ himself to him, and to the dispensation of grace for the restoration and recovery of man, I am not entitled to insist on great qualifications of knowledge or of talent, or that they should answer me as a scholar would answer me,—they are babes in Christ, should be treated with tenderness and affection, and are entitled to be received into the communion of the Church. Other circumstances are to be taken into account when we fix on the best mode of choosing a minister, than the qualification of being a communicant; and I am of opinion, that the old way of making separate columns, one for heritors, another for elders, another for the heads of families, which was the mode of the Church of Scotland, was the best, and should not be departed from. This is a new mode that has been proposed, by *which the decision depends on mere numbers*. I think this is unjust, because it does not give to each party in a parish and in a congregation their proper influence. I think that there is a vast difference between the situation of men who are residing constantly with their families in a parish where they have dwelt from their infancy, and where their children also will reside, and those, however worthy they may be, who have seats in the Church for a couple of years,* and then may go away to another part of the country, such persons are not interested in the choice of a minister to the same degree that the stated permanent residents of a parish are. Besides, taking the matter in a more general view, I hold it to be the most unwise thing in the world not to introduce the heritors to a considerable degree of influence. If you throw out the better educated class from having any connexion with the choice of a minister, the consequence will be, that they will take no interest in the Church of Scotland, that they will build chapels for themselves, and will leave the Church, that they may have ministers qualified according to their own taste.†

Some member of the Committee on a subsequent day put a question which seemed to taunt him with the opinion that the Christian attainments of the communicants were insufficient for the enjoyment of such a privilege. The venerable and kind father of the Church shrunk from that abrupt statement, but conveyed his objection even more forcibly in his supplementary answer.

2184. ‘ I did not mean to say that they were not fitted for the enjoyment of such a privilege: but that one class, namely, the labouring class, as must be the case if the majority of communicants alone have the power, ought not to monopolize that right. Now they have their good qualities, but they have their prejudices and their imperfections. On the other hand, if you divide them into classes, as I proposed, you bring into operation the better educated classes, and they have their natural and proper influence. I meant also to say, that the qualification necessary to become a communicant will not ensure all the qualifications necessary to the best election of a minister.’

* Having been in communion for *two years*, it will be remembered, was proposed by Dr. Chalmers in 1833.

† Rev. Stevenson Macgill, p. 302.

Unsound and untrue as the estimate of human nature is on which the Veto proceeds, I apprehend that the effect of the measure will be to unfit the people still more for the function proposed to be assigned to them in the Church.

The Church is to declare that such is the amount of sound doctrine—of Christian principles—of the love of the truth—of freedom from the influence of all other motives among their congregations, that they ought to sit in judgment on the qualifications and fitness of their spiritual guides.

Now the experience of all similar measures proves, that such measures on the part of the Church will create among the people (and I here mean, the *Hearers* of the Church universally, for no faith can be placed in the superiority of the Christian character of any class, high or low, all equally requiring to be taught and instructed in the things in which the wisdom of man availeth not) great spiritual pride,—an overweening estimate of their own attainments and progress in religion,—an assumption of superiority over, or at least of equality with, their spiritual instructors, which is utterly inconsistent with the relation of pastor and people, and most injuriously opposed to the docility of mind, with which the truth ought to be received, as the Word of God, without reference to the mental attainments of the hearer or the speaker. The disposition of man is not too prone at present to submit to the teaching of the Church, coming, as that instruction does, from fellow-men. All know well how prone we are to think of the talent and attainments of the individual preacher, before we are disposed to listen to the truth, though faithfully and seasonably and earnestly spoken. That is one great hinderance to the meek and docile reception of the truth. And surely that is not a disposition of mind to foster and increase in the hearers generally of any church. But to submit every proposed pastor, by the decision of the Church, to the judgment and approval of the *hearers of the word*, is the very way to invert the true relation between pastor and people, and to give the Church's sanction to a most false and delusive estimate of the Christian dispositions and tempers of men. There has been much, as it is, in the history of the Scottish Church, tending to encourage among us spiritual pride, and an undue notion of our superior and purer love of the truth, because our ancestors adhered to it through so much of discouragement, trouble, and persecution. *Personal improvement* of the truth is happily more the duty of modern times. Let us not tend to create or increase that tendency to spiritual pride, which is one of the most fatal causes of obstruction to the influence of the truth on the heart, by a measure founded on an estimate of man, the very reverse of that which it is the Church's duty to impress.

When the practical effect of the Veto is pointed out, and when it is seen that it leads very generally to a variety of candidates being sent to preach to the people, in order that the latter may choose from among these competitors for their favour the individual who pleases them best, your Lordship will perceive how general and pernicious will be the operation of the measure upon national character.

To degrade and vulgarize the appointment of the ministers of the gospel, by making it in any way the subject of popular decision, whether in original selection, or of judgment on the person presented, seems to be a most fatal mistake on the part of the Church. The error seems to be great indeed in reference to the relative state of Church and people, even if we could look to such a measure as the Veto in the abstract, and without regard to the circumstances which, in practice, must frequently accompany and characterize its exercise. In the present days of popular choice for all secular situations—of strife—of contention and agitation,—to teach men to turn from the hustings of the political or municipal election one day, to a Veto on their spiritual teacher the next, or, (as the measure practically brings about), to a popular choice and election out of a number of candidates,—to accustom them to view the decision of numbers as the *paramount and absolute* ground, equally for rejecting the political and the clerical candidate,—to teach them to regard *their* rights in respect of numbers and of personal judgment, as of equal weight, and as much to be regarded, in the regulation of the affairs of the Church and the qualifications of their pastors, is to expose the authority of the Church to the influence of the feelings and passions which it ought to controul and eradicate,—and to give in these, its most important practical arrangements, an opening for the consequences of the strife and contention, of the spirit of license, of insubordination and disorder, which are abroad.

In a populous parish—with a mixed population—of all kinds of occupations, pursuits, and stations of life—to call for the dissents on a roll of many hundreds, with the influence of the rest of the congregation actively exerted—with all the solicitations by the candidate or his friends—and, still more, the effects of the canvass or caballing of those opposing him, and hoping to obtain interest for another, will be attended with most of the evils of a popular canvass. If, on the other hand, instead of a selection by the patron, he is compelled, as has been frequently the case, to leave the selection to the people, these evils are of course increased. Dr. Chalmers, in the note to his speech already quoted, describes scenes which have notoriously occurred. But the sources and elements of strife, so emphatically described by Dr. Chalmers in regard to popular election, will often break out and operate, in regard to the vote which the parish is to pass on the nominee of the patron. To be sure Dr. Chalmers persuaded himself in 1833, that ‘those village demagogues, the spokesmen and oracles of a parish, whose voice is fain for war, that in the heat and hubbub of a parochial effervescence, they might stir up the element they love to breathe in,’ will be silenced by the plan of the presentation being made by a patron; and submitted by the Church to the people for their judgment. But in truth the field seems to be as open for their activity and mischief under the scheme of the Veto,—the provocation to such activity and agitation even greater, if the people are not allowed their choice, and are yet desired to pass judgment, as the party who must be pleased, on the nominee of the patron. And in 1839, after five years’ experience, and with cases too notorious to be disregarded, Dr. Chalmers seems, from the Note

already quoted, to have lost confidence in this sanguine expectation, that such coarse elements of effervescence were never to appear under the scheme of the Veto. According to all analogy, we are warranted to believe that the system of the Veto will engender a worse spirit than if the people were left to choose for themselves; and that so soon as the Veto becomes a settled and fixed law, and the people come generally to understand the power thereby committed to them,—the very power given to the people will create feelings of opposition to patronage, and causes of dissatisfaction with presentees, which may be incalculably injurious to the interests and authority of the Church.

The communication of a great popular right to a numerous body, —whose qualifications for the trust are by that measure fully admitted, but accompanied with great restrictions, for which there is no warrant in that estimate of their qualifications on which the measure proceeds—always must create great dissatisfaction. ‘If we may judge, why may we not select? Why should we be fettered by the selection of any patron? We ought not to be so treated. We are allowed to reject whom we please, and are not to give an account of our reasons; and the patron’s man we will not have. Then we will compel them to give us the man we want.’ Such is the natural effect of half measures in conceding popular rights; and we shall see proofs how the proposed measure has worked in this way.

Dr. Chalmers, in the note already referred to, alludes to the probability of occurrences taking place, of which in 1833 he had wished to banish the prospect; and of the state of the parish during a vacancy being marked with the canvassing of a popular election. That these things must often occur is very plain. Some licentiate or other will generally have the means of acquiring influence in a vacant parish; if none with the patron, he will not be the less disposed to court support which may lead, in the first place, to the rejection of the presentee, and ultimately it may be to the compulsory selection of himself either by the patron or Presbytery (if the Veto is to apply even to them.) And if the patron, viewing his patronage when so controlled as no longer of value, and as imposing no responsibility on himself, gives the people a list to choose from, then we have all the caballing and intrigues of a popular canvass, of which Dr. Chalmers entertains so just an abhorrence.

But these consequences will appear more serious, when we look to the necessary effect of such a system on the *characters of the licentiates* of the Church. When the measure was first proposed in 1833, this objection was powerfully urged by Dr. Forbes, one of the professors at Aberdeen, a clergyman of the Church, and as well acquainted perhaps with a large portion of the licentiates of the Church, with their circumstances, and the causes which may affect their views, as any man in Scotland.

‘He would recall the attention of the House to the effect it would have on the licentiates, and consequently the ministers, of the Church. If they took men to be men, they would acknowledge that from the moment a student entered the Divinity Hall, his great object was to con-

‘sider how he was to succeed in the profession he had chosen, and how he was best to secure a situation where he could exercise the acquirements he was endeavouring to become possessed of. This was the plain consequence that must tempt the mind of every young gentleman that entered the Divinity Hall. He would not be understood to say that many well-minded young men would not resist this feeling ; but it was the frailty of human nature that all of them were too much tempted by the desire of popularity. They all desired to be well thought of, and to gain the applause, not only of the good and conscientious, but of mankind in general ; and it was difficult for them to draw the line between the applause of those whom they ought, and those whom they ought not to esteem ; and the strong temptation of popularity presented itself to every young man, from the time he began his studies. This, no doubt, was a temptation which some of these young men would resist, but he apprehended many of them would become its victims ; and the consequence was, that if a man should once give way to the desire of popularity, to be a lover more of the applause of man, than a lover of the approbation of God ; if he varied in his public appearance as a preacher, from what were the convictions of his own mind, he would go a little farther ; and if he accustomed himself to such a practice for one six months, however erroneous might be the views he had taken up for popularity, he would end in believing them with the fullest confidence—like the man who, from having frequently told a story which he knew to be a lie, would work himself into the belief of it by frequency of telling it. He would beg to go a little farther. What would be the plain consequences as to such a man, when he had got a settlement ? He would be inducted as a popular clergyman. It was not the clergy who were at all times the originators of heresy ; it oftentimes arose among the people ; and such clergy as those to whom he was alluding were often led away, not by the convictions of their own mind, but by the feelings of those who were inferior to them in all sorts of acquirements. He referred them to a case that came before them not long ago. It was not the clergyman, but a weak woman, that led the way in the heresy to which he alluded, and which ended in the deposition of the minister of Row.’*

There is very remarkable and impressive testimony to the necessary operation of these causes on the minds of probationers, borne in the evidence of one of the very ablest and most decided advocates of the Veto. In the spring of 1834, in the evidence before the Patronage Committee, the Veto was strongly advocated by Dr. Simpson of Kirknewton. Along with Lord Moncreiff and others, he did not believe that it would lead to any popular selection, or that the people would use their power so as to enforce any choice,—and, on the other hand, he objected to any system which would give the people a choice on the ground, among others, of the inevitable effect of such a general system on the style of preaching, and other objects which licentiates would propose to them—

* Speeches, 1833, p. 103.

selves, in order to obtain popular favour. I believe it will be admitted to me, that there is not a member of the Church better qualified, both from experience, talents, knowledge of human character, and from the opportunities of observation attending his peculiar situation as one of the clerks of Assembly, than Dr. Simpson, to judge of the effects of such a measure as a choice or 'election by communicants,' on which his opinion was asked, on the *character and views of licentiates*.

'935. What would be its effects on the character of the Church ?
' I think its effects would be to lower the respectability and deteriorate the character of the ministers of the Church ; we should have an inferior style of qualification and accomplishment, studied and cultivated.
' I think our young men would then be led to attend with undue regard and anxiety to those acquirements and accommodations by which they might court the people who elect them.

'936. What would be its effects in leading to unworthy and disingenuous means to obtain appointments ? I have no doubt that it would lead to unworthy and disingenuous means to obtain appointments. Considering the ordinary principles of human nature, I think no man, whose living depends upon the choice of the people, can almost avoid resorting, more or less, to little artifices and appliances, and accommodations to their tastes and their prejudices, which would be equally injurious in their effects upon his own character, and upon the right and independent exercise of the ministerial function. As illustrative of this, I may mention a case that came under my own observation : the election was given to the people : a very respectable young man, one of the candidates, asked my opinion and advice as to how he should conduct his trial appearance ; what should be the subject, and what some other characteristics of the sermons he should preach, &c. It is well known that in Scotland there is a strong predilection in favour of spoken, over read sermons ; and this young man having been accustomed sometimes to read, and sometimes to speak, asked me the question, "Do you think that I should read, or that I should deliver my sermon ?" I answered, "Supposing you were to succeed in the present object of your ambition, are you resolved and prepared to continue to speak your sermons ?" "No," said he, "for I do not think I would be able to do that." "Then," said I, "most certainly do that only upon your trial which you are able, and mean to do, in the general conduct of your ministry, if you succeed." The young man, I have said, I believe to be a respectable person ; but, in point of fact, as I afterwards learned, he went and delivered his sermon : he did not read it.

'937. Was he appointed ? He was not appointed. I mention this as an example of one of those little yieldings of high and honourable principle—one of those little accommodations, to which I think popular election strongly leads. I have known cases where a man, having spoken his sermons when a candidate, and having ceased to do so when he became parish minister, thereby injured himself in more ways than one in the estimation of his people.'

And again,—‘ 1029. Do you consider that the character of the communicants in Scotland is not of a stamp high enough that they may be held to be as good judges of who shall be the pastor to be placed over them as the lay patron under the present system?—I think it the most delicate way of answering this, to appeal to my own feelings. If I were a probationer and in want of a church, and if the election depended entirely upon the people, even as the question has described them, I would be under strong temptation, I am fully satisfied, to suit my preaching and my conduct generally to them in such a way as I think would not be beneficial either to the character of the Church, or to the good, ultimately, of the people themselves. I have no doubt that the kind of qualifications which are apt very frequently, in a trial sermon, to captivate a general audience, are not the qualifications altogether which make the most useful clergymen. I am quite willing to admit, to a certain extent, that a clergyman should have popular qualities; but I think the kind of popular qualities which would in many cases attract, in an election of this kind, are not the most valuable and important in the character, and with reference to the peculiar functions of a minister.

‘ 1030. Do you consider, if a candidate for a parish should preach the high and recognized doctrine of the Confession of Faith, that such preaching would be acceptable, or otherwise, to the communicants of Scotland at the present time?—I have not a doubt that what we call sound orthodox preaching, which I hold to be at present the style of preaching in Scotland, is popular and acceptable to the people there.

‘ 1031. What is the style of preaching to which you allude when you say that the communicants in Scotland would be in the risk of getting from candidates in the way of popular election?—I would just say that it was a showy attractive style of preaching. Every one knows what are the eccentric qualities of manner and address, and all the little appliances which attract the multitude in a trial exhibition; and assuredly these are not always found to be the accompaniments of the more substantial qualities, either of orthodoxy, or sound sense and judgment. What I mean is this, that while orthodoxy is *per se* undoubtedly highly prized by our people, it may well happen, that of two men quite equal in this respect, the one shall, on account of mere extrinsics, be very popular, and the other, on account of the want of them, very much the reverse. I might have put the case even more strongly. I have known myself, and I may mention it in illustration of this point, many young men, extremely popular preachers, who, I should say, were exceedingly inferior, in reference to every high qualification which goes to make an able and accomplished minister of the gospel, and an efficient overseer of the spiritual interests of a parish; and this fact seems to be noways inconsistent with the general intelligence of our people, and their just appreciation of ministerial merit, when full time and opportunity are given to judge.’

Two circumstances may be alluded to in passing, which these questions and answers suggest.

In England it may not be generally known that there remains in many parts of Scotland a strong prejudice in favour of sermons which the preacher does not read, or of which the copy is not lying before him. There is a sort of undefined impression and belief, when he does not read, that the sermon is an extemporaneous effusion, marking greater talent, and the result of the gift of the moment, while the fact generally is, that the composition is, with great labour, and at an infinite loss of time, committed to heart, having been either all previously written, or the product of many a weary hour of unprofitable rehearsal. Yet the prejudice on the subject is still in many parts of Scotland strong; and no one can doubt, that it will both influence rejections and decide selection among candidates.

This is a matter which forcibly illustrates Dr. M'Gill's remarks:—Such a ground of rejection or of selection would be most unjust, unsatisfactory, and imperfect. It would influence only the lower class of society; and thus, as Dr. M'Gill says, undue weight would be given to their prejudices and opinions on a matter on which the intelligence of other classes ought to have greater influence and effect.

One of the questions put to Dr. Simpson contains one of the favourite arguments in support equally of the Veto and of popular election. Are not the Christian attainments of the communicants equal to those of patrons?—omitting, as Lord Moncreiff in his evidence, and Dr. Chalmers in his speech in 1833, point out so forcibly,—the elements of responsibility thrown on the *individual* who is to select—the certainty of caballing and party heats—the arts which will be resorted to in order to obtain interest—the practices which will be resorted to by candidates themselves to insure favour—and all the methods which will be taken to work upon, as Dr. Chalmers somewhere terms it, the gullability of the multitude.

That these predictions were not unwarrantable, short as the time has been, there has been already evidence sufficient to force itself on any attentive observer. Many hearers will concur in the remark that there has been rapidly taken up by probationers a much more ambitious, ornate, and flowery style of language for town congregations, and in the country, in many instances, a style little calculated to convey sound instruction, tending often to foster spiritual pride among the lower classes, and substituting for faithful dealing a very enthusiastic style of address.

But the fact is proved in another and most distressing manner.

That this ordeal of the Veto, with all the sacrifices which may often be made in order to escape the stigma of rejection with its grievous consequences, must be most galling and irksome and revolting to many minds—perhaps only the more qualified for the ministry, on account of the very feelings which render such a mode of trial repugnant and odious to them—cannot be doubted. To a pious, modest, sensitive mind, looking to the blessing of God for direction and support in the exercise of the sacred profession for which he is intended—to the great objects of the ministry for the only earthly reward to which he should aspire—firmly impressed with the great authority of the commission which he hopes

to receive from the Church, and of the entire independence of the opinions and caprice and fancies and favours of men with which that commission must be executed, and knowing that in these motives, and in the blessing of his great Master, he will have strength for duty, authority for instruction, and weight and force of preaching, of which in any other pursuit his character is incapable—the notion of being submitted to the judgment of numbers in the congregation, on one or two sermons which he is to be set up to preach for their approval, carries with it circumstances equally degrading to himself, and revolting to all his views of the functions of the holy ministry. The necessity of such an ordeal must tend to deter many of those, who, are the best qualified for the Church, from entering on a profession involving an ordeal so repugnant to them, even if they hope to escape the ruin and utter depression which rejection may for life inflict.

What has been the result? *The decrease in the number of divinity students has been so great, as already to attract the attention of the Church. The numbers have fallen off, it was stated in the last Assembly, one-half; while the situations in the Church had been, it was said, doubled, at all events greatly increased.* These facts were brought forward in detail, not by the opponents of the Veto, but by a Synod, the majority of which are decidedly favourable to that measure, or even go further, for the purpose of proposing means for encouraging a greater number of young men to come forward for the clerical profession. Dr. Chalmers represented the alarm as exaggerated: and the facts may have been strongly put, *although regular tables, the accuracy of which was not impeached, were given in proof of the statements.* But one of the keenest supporters of the present measures, Professor Brown of Aberdeen, replied, that Dr. Chalmers's calculations were founded on the wants of the Church some years ago, and were not applicable to the increased number of situations in the Church, and that the fact of great decrease was proved by the tables beyond question. Accordingly, a measure was actually carried, to propose that the Presbyteries should try to institute bursaries and give other encouragements, in order to obtain an adequate number of divinity students for the supply of the Church.

To what is this decrease attributable? Other causes, I doubt not, co-operated: But that many intended for the Church have resolved not to enter on a profession in which they are unexpectedly to encounter such a measure as the Veto, and may have their whole prospects in life so cruelly, and, it may be, so unjustly blasted, and their professional prospects destroyed without trial or judgment by the Church which is to educate and train and prepare them for the ministry, cannot be doubted. In the experience of private life many must have encountered this fact, as well as myself.

I do not doubt, however, that in time, the demand will bring forward again sufficient numbers; but that a proportion of those the most qualified by character and temper and disposition for the office of the ministry, will be always deterred from exposing themselves to the injustice and stigma

of the Veto, is what experience leads us to expect. And that a class of probationers will be gradually formed, hardened to such an ordeal, and preparing themselves to obtain situations in the Church in the way, which they find most available in ordinary secular cases; and on the characters and views of many of whom a most undesirable change will be wrought;—we may believe, with Dr. Forbes, will be an inevitable result of the measure.

In what way is the judgment of the people to be formed?

The presentee, who may not be previously known to the parish, is to be appointed to preach once—or the Presbytery *may* if they choose appoint him to preach oftener, provided that the last occasion be not later than six weeks after the presentation is sustained, (and the requisite forms will really seldom admit of his preaching more than twice, even if the Presbytery *choose to allow* the second opportunity): On such opportunity of judging of the presentee the judgment of the congregation is to be given.

Can any one say that an opinion so formed ought to be conclusive—barring the right of the Church to judge and decide for itself? How little can the ministerial qualifications be really judged of by any congregation on one or even two sermons? Want of talent—of sound doctrine—of just views of duty, *may* be often seen certainly on slight opportunities, if we suppose the sermons to be a fair estimate of the individual's talents and opinions. But these are matters which may be easily stated to the Presbytery, and of which *they can more fully judge*. But as to whether a man of talent and learning, of piety and scriptural views, is to be a useful preacher—to be ultimately one fitted for the regular instruction of the parish—how is it possible that one or two opportunities can ever enable the people satisfactorily and definitely to decide, so as to render peremptory rejection, proceeding on a first impression (liable to be affected by so many extraneous circumstances), a safe power to commit to them? The effect of such a trial,—of putting the individual up to preach one or two trial sermons for the purpose of pleasing and satisfying the people,—will, with many minds, lead to the selection, on such an occasion, of one or two topics easily handled, and as to which the style and views likely to please may be known from the experience of others; and thus a most false system of looking to the views and tastes, and even the very errors prevalent in the country, may be promoted and encouraged. With many minds, minds of the highest class too, the dislike of such an ordeal may lead to very opposite results; they may be led to preach sermons, perhaps very different from the ordinary exertions of their minds—selecting purposely, topics the least likely to be popular or taking, for the purpose of asserting their independence of the opinion of the people,—and many may suffer from that cause. Nervousness—the inability to bring the mind to bear upon the important topics of pulpit instruction, either in prayer or sermons, when oppressed with the notion of being on a trial, is so cruelly distressing, and so degrading to the station in which the indi-

vidual stands, that it may wholly incapacitate some minds from any great and vigorous, or natural, exertion of thought;—such may suffer from that cause. There are many, again, of the most valuable ministers, whose powers of preaching may not be estimated highly on a first trial, and who, in the event of a popular vote, have but little chance in competition with preachers of a more imposing and popular character, and yet whom we know to be most excellent preachers for all the great objects of pulpit instruction.

Preaching seems to be the most difficult attainment of the human mind, if we may compare the success, in this exertion of mind, of the most pious and earnest, with the talent and mental vigour which they can display on any other subject. The improvement of the talent must come, probably in all instances, from the actual experiences and labours of a ministerial life—from the knowledge of human nature, the views of mental doubts, of prevailing temptations, of the most frequent hinderances to practical piety which may be thereby acquired. The right preaching of the word is not the sure result of the preparation and solitary mental labour of the student. Hence early success is often not followed by future improvement and usefulness, in proportion to what is found in others whose promise was at first less, though the zeal and labour and anxiety of the former may have been as ardent and unremitting, and the views and sense of duty as sound and faithful.

The ground of condemnation, supposing it to proceed on an honest opinion, is therefore imperfect, unsafe, altogether insufficient to secure the object which the people themselves have in view, but *still more insufficient to exclude the judgment of the Presbytery*, formed on fuller trials, on better knowledge of the man, with larger experience, greater wisdom, deeper learning, juster views of the objects of the ministry, and sounder estimate of the ministerial gifts.

In the very valuable and instructive evidence of Lord Monereiff before the Patronage Committee, there are some most important remarks upon this part of the subject, in explaining his objections to any plan of giving the selection to the communicants *out of a list to be proposed to them*. It appears to me that every word is even more applicable to the plan that the Church shall submit the individual named to the judgment of the same body, to be tried and rejected by them on the test of one, or, at the utmost, two sermons. And if, as will be seen, the effect of the Veto has in many cases been to compel the patrons to adopt this course of giving the people a list of candidates out of which to choose, every word in the following remarks tells against the Veto. He said, ‘But perhaps the more intrinsic ground of objection to any popular election of a minister lies in the danger of an improper selection being made at the first. If the thing is to be done in this way, the electors must act very often upon very hasty and imperfect knowledge. The common way is, that some individuals, one of whom it is supposed they are likely to fix on, are invited to preach once, or perhaps twice. They may know little more concerning them, and then they are to determine which of one, two, or more persons they

'prefer. This, I imagine, is but a narrow means of selection ; and
'without supposing that in any great number of instances there would
'be unfaithfulness in the gentlemen put forth as candidates, yet we can
'certainly suppose the case that individuals might preach in a particu-
'lar manner, which was not according to their ordinary habits of think-
'ing or writing, or even according to the principles by which they in-
'tended to be guided in future. The sermons preached might not even
'be of their own composition, and where there is so little means of the
'history or character of an individual being precisely known by all the
'individuals residing in a remote country parish in Scotland, I think
'that there might be in many instances great danger of their fixing on
'a man hastily on probable grounds, at a moment when they were al-
'together misled and deceived. The man may be defective on other
'points that did not appear, and are not involved in any such test as
'merely preaching on one or two occasions ; he may be defective in the
'power or the will to administer to the wants of the people in private,
'or defective in the learning necessary for a man placed in such a si-
'tuation, or in other circumstances, upon which it would not be plea-
'sant and is not necessary to dwell, and into which the common people
'of a parish might have no means of duly inquiring.*

Let it be remembered, that a number of the circumstances, which may produce hasty and erroneous selection and preference, may also produce false impressions and defective judgment, leading to injurious rejection, in the case of a single individual being submitted for approval on a trial sermon.

Indeed, so imperfect are the opportunities of judging, that the Veto is in truth a miserable protection against the risk of ultimate dissatisfaction—which is the object to be secured by the plan. The remarks of Dr. Simpson most profoundly shew how easily individuals may pass muster on such a trial, with great eclat, too, whose qualifications as preachers (independently of other deficiencies), may ultimately give very little satisfaction.

It is indeed an extraordinary estimate of the hearers of the Church, which can bestow on them the peremptory right of rejection on such a trial as they generally can have. I think that those greatly err who are disposed to *underrate* the comparative value of the talent of preaching, in reference to other and most useful parts of the ministerial character and labours. But still the talent for preaching is not by any means the only qualification for the ministry, nor is it dispensed equally to all, nor can it be possessed in any great degree by all. The theory of a useful, faithful, excellent ministry in a national church is not that the gift of preaching is to be shared equally, or in an eminent degree, by all. Now, of other most important qualifications, the trial on which the judgment of the congregation is to take place gives them no knowledge whatever, while the individual may have proved himself in many particulars eminently qualified for the charge of a parish, and may be

* Evidence, p. 184.

known to the Presbytery to possess the same. Yet he may be finally rejected, exactly because the taste of the people for one and perhaps a faulty style of preaching has been formed.

Again, in many instances another circumstance may bias the congregation as to the sermon which they are to hear from the presentee. During the last years of the former incumbency, if the clergyman has been aged or long ill, some friend of his acting as assistant may have recommended himself to the people. His style of preaching, though not better by any means, may be peculiar—may have become acceptable to the people, who have got accustomed to him, and who may not reflect that perhaps at first they did not like *him*;—or though his preaching is inferior, he may have been most useful and acceptable in other duties—they have wished to have this individual settled among them, and not getting him, the individual whom they are to judge of on a *trial sermon* has but little chance of *pleasing* them, if through his appointment they are to lose another to whom they have been accustomed.

No doubt, on the principle that the people ought to select and choose their own pastor, those who support the Veto because it leads to the abolition of patronage, and in the meantime practically destroys it whenever the people choose to exercise their right to reject, will say that this case is one in which the benefit of the Veto comes into play. But on the principles on which the Veto professedly is advocated—on the views stated by Dr. Chalmers—a rejection on such grounds as I have alluded to is an *unjust* and *unsatisfactory* exercise of it—a judgment not proceeding on legitimate grounds—a rejection of an individual whom the Church may know to be admirably qualified for that parish. The people do not form a sound judgment on a trial sermon, being biassed, unknown to themselves, by considerations which do not affect the gifts or qualifications of the presentee.

But there is another case, of a different description, which is very likely to occur, and of which appearances have already manifested themselves. I have adverted to the probabilities that the neighbouring clergymen of the Presbytery may take—(such a measure tempts and encourages them to take)—peculiar interest in the appointment to the vacant parish. To any one acquainted with Scotland, I need not enlarge on these probabilities. They may wish a particular individual appointed,—the parties among them may be nearly balanced in church politics—(that fruitful source of keenness, of conflict, of individual estrangement in the Scotch Church)—and the nomination of a person likely to alter the balance of parties in the small provincial Presbytery, (perhaps consisting only of six or seven, or eight or ten members), would be a sad mortification to the actual majority at the time. During the vacancy, these clergymen preach in rotation in the church. They often officiate in the parish for other duties. They may know many of the parishioners. They are brought into frequent communication with the kirk-session. Their opinions on all points may have great weight, and will often be asked. They may have individuals to preach in their own Churches,

during the vacancy, whom they wish to recommend. In *practice*, however regular, we know that favoured probationers have been allowed to preach in the vacant church. The prospect of the exercise of the Veto calls forth among the parishioners new views, when a vacancy occurs, as to their own rights. A few hints may easily be dropped which may indispose the people to look favourably on any one to be nominated by the particular patron. The peculiar tone of the sermons preached during the vacancy may, by the selection of the topics, though without direct allusion, predispose the people against the individual who may be presented. The known opinions of the Presbytery in regard to him when he is appointed—the passing remarks of members of Presbytery in regard to the selection, when they are not to have the responsibility and duty of publicly and collectively judging for themselves—the style and tone of the sermons which may be preached after his appointment is known, or when it is thought that the patron means to select an individual for the charge—fervent and inflated discourses on the value and importance of the liberty which the Church has given, and on the duty of using and asserting that liberty,*—in a thousand ways, in short, the Presbytery may influence, and, as it were, wholly direct the result of the appeal to the Veto, in regard to an individual against whom no objection whatever lies, and whom the Presbytery could not but pass and admit as an excellent person, if on them lay the responsibility and duty of judgment in the face of the Church and subject to the powers.

The Veto gives on every occasion the greatest possible temptation to members of Presbytery to interfere. In many instances their motives may be most honest—their object may appear most legitimate—the good of the people may be frequently the end which they believe they have sincerely in view.

No one understanding Scotland can doubt, that the effect of the Veto will be to place a great and powerful engine at the command of Presbyteries, which will be often and industriously directed and set in motion by them. The measure will alter materially the relative position of Presbyteries towards the people and the Church at large, in the important function of collation. At present they occupy the important solemn station of judges, acting openly before the Church, and on grounds which admit of appeal from their judgment; but their position will be wholly altered by this measure. Rejection relieves them of all responsibility. They possess the means of influencing that decision—unseen—under no responsibility—allowed to act each according to individual impulse and to individual opportunities.

And what will be the result?

1. That while they will generally attain their object, if the intention is to bring about rejection, the Presbytery will very speedily suffer in estimation and respect even among the people whom they so influence.

* Many instances have occurred of such sermons. Some will be afterwards referred to.

This is the case in every instance in which clergymen interfere in matters beyond the strict line of duty. The interference is often most effectual; but the result uniformly impairs their proper influence as ministers of religion, and diminishes the authority of and respect for the clerical character.

2. That practically very great power will be acquired by the Church itself in the nomination of clergymen—a result of all others to be deprecated. I hardly know any one thing which would be more prejudicial to the interests of Scotland, than the clergy directing in this *private* manner the operation of the Veto, and securing thereby either the selection, in the first instance or ultimately, of the persons they wished, without the responsibility of public presentation; or the actual exercise of the right of presentation, by the patron's forfeiture of it.

I wish to bring to bear here the just and weighty remarks of Lord Moncreiff, (Patronage Evidence), in answer to the question as to his opinion 'on the expediency of vesting the right of election in the 'Presbytery?'—'The first scheme which was struggled for by the 'churches was, that the Presbyteries should have the power. The 'Presbyteries seem to have wished to bring themselves into the position, not merely of the bishops, but I think really, into the position 'of the pope; to have the universal patronage in their own hands. 'Now I do not suppose that it is necessary for the satisfaction of the 'Committee—it is not necessary, at all events, for the purpose of expressing my own opinion—to go into any detailed statement, in order 'to shew that a scheme by which the power of appointment should be 'put in the Presbytery would not be satisfactory to any one. If we 'were only to look to the more numerous and eminent Presbyteries, 'whose proceedings are most before the public, there might seem to be 'no great danger of their acting improperly. Yet with all the respectability those Presbyteries possess, we all know, that even in them 'party spirit and party divisions frequently prevail, which would render that Court, in my opinion, a very unfit instrument for originating 'the nomination in all cases. But in the remote districts of Scotland, 'we find Presbyteries composed of three or four members, and very seldom more than two sitting together, where they have to travel great 'distances by water, and sometimes in the winter season. Considering 'the infirmities of human nature, it is impossible not to see that there 'would be great tendency to jobbing if such a power were given to them. There is no man who entertains greater reverence and respect for the Presbyteries of the Church than I do. But without 'saying more, it seems to be enough to state, that I conceive it impossible that any plan for giving the power of appointment to the Presbyteries would be satisfactory to the public.'*

It was justly stated by his venerable father, Sir H. Moncreiff,†—(than whom no one had more profoundly studied the character of the Church of Scotland, or better knew both the character of his brethren as

* Evidence, p. 180.

† Constitution, p. 34.

an ecclesiastical body, and the tendency to extreme opinions which certain parts of the constitution of the Church will create, if not under due regulation),—in commenting on the effect of the directory established in 1649, by the Assembly to whom Parliament entrusted the power of fixing the mode of calling ministers, when patronage was in that year abolished by one of the rescinded acts, that the effect of the change was to enable the Church to place their own nominees in benefices.—‘ By the ‘ directory for the election of ministers of 1649, if a majority of the congregation dissented, they were to give their *reasons*, of which the Presbytery were to judge. If the Presbytery should find their dissent ‘ founded on *causeless prejudices*, they were notwithstanding to proceed to ‘ the settlement of the person elected. And there is a clause subjoined, ‘ which in those times would apply to many cases, “ That when the “ congregation was *disaffected* or *malignant*, in that case the Presbytery “ were (*by their own authority*) to provide the parish with a minister.” ‘ Though this mode seemed to give weight to the clergy only in the ‘ first nomination, or on extraordinary emergencies, and more influence ‘ to the people in ordinary cases, it is evident that the clergy had still ‘ the chief influence in the ultimate decision, as well as in the selection ‘ of the candidates. For when the people were divided, which very ‘ generally happened, it lay with the Church Courts at last to determine between the parties; and it can scarcely be supposed, with all ‘ the purity which can be ascribed to the intentions of the clergy, that ‘ the candidate who had most favour among them was often rejected.’

The influence which Sir H. Moncreiff objected to as one unfortunate effect of the arrangements made by the Assembly in 1649, will, though in a less legitimate manner, be exerted and operate in a much greater degree under the Veto scheme. And in several instances which have occurred, it was manifest to the whole country, that the rejection was truly brought about by the Presbytery.

Even the year after the Veto passed, it was found necessary, in the pastoral Admonition by the Assembly, to address to *Presbyteries* the same *reproof* which was addressed to the people, and to remind them that their influence ought not to be exerted either to lead to rejection or to secure the ultimate nomination for any one favoured by themselves. Indeed, the Assembly of 1835 had before them, besides many startling instances of interference by members of Presbyteries, extracts from a sermon in the case of Trinity Gask (as published by the clergyman himself), preached in the summer of 1834, immediately after the presentation was issued, of a character which called most loudly for such an admonition. The presentee was Vetoed,—though, from a point of form, as to whether the case fell within the new act, and whether a roll had been made up in time, the right to put a Veto on the nomination was, by the Assembly, declared not to have come into operation, and a most meritorious and exemplary individual was thus saved to the Church. But the sermon (see *Scottish Pulpit*, No. 145, Saturday, January 3, 1835), contained the most vehement and impassioned exhortations to the people, couched in Scripture language, and enforced by Scriptural quotations, *to use the liberty which they had received*, without re-

gard to obstacles, *and to turn to account* their privilege.* Such exhortations immediately after a presentation was issued, (I believe to as exemplary a person as ever entered the Church, with the most satisfactory testimonials from the most eminent clergymen of both parties in the Church, giving him the highest character in every respect), could not but produce the only effect for which such sermons can be intended. Many other instances could be adduced of clergymen, during a vacancy, preaching on the subject of the Veto, and of the exercise of it by the people; some in one strain, some in another, but all proving the certainty of great, frequent, and most mischievous interference by individual members of Presbytery.

It was not surprising that an admonition to Presbyteries became necessary, even in the course of the first year after this ill-judged measure was passed.

The influence which they would acquire would not practically be much less, although the Presbyteries should agree so far to alter the regulations, as to allow the Veto to apply to those presented, *jure devoluto*, by the Presbytery. In the course of the preliminary opposition to the presentee of the patron, it would be easy to interest the people for the person whose appointment the Presbytery wish to secure. Opposition to the one leads the people, as was often seen in the disputed settlements about a century ago, to take up another, even although in every way inferior, and to identify the desire for his settlement with the resolution to oppose or reject the presentee of the patron.

One practical objection to the plan of the Veto, indeed, is, that individuals who have friends in the parish can easily get opposition to the nominee of the patron stirred up, and then, in the discussion as to the propriety of rejecting him, the people come to be interested in and committed to the other, without due inquiry or knowledge or reflection. The opposition to the presentee, and the ultimate success of the other, become a common cause: every thing which tells against the former, comes to make in favour of the latter,—and the people are thus engaged for one whom, if they had had the power of choice originally, they probably might not have chosen. As a means of obtaining a good appointment, when the people are disposed to Veto, I believe the plan to be even less likely to be successful than popular election would be.

And when, as will often happen, the other individual, making interest in his own favour, and tolerably sure that the result of the Veto will force the patron to take him, or throw the matter into the hands of the Presbyteries, happens to be a friend or connection of some of the

* It is difficult to convey any notion of the style and tone of this sermon: and the very fact that the clergyman published it in order to shew that he had *not* thrown a 'firebrand' into the parish, is a proof of the extent of interference and direction which some clergymen think they may legitimately exercise.

Presbytery or other neighbouring clergymen—backed by their known opinions and wishes, (and what case is there, in which there are not some licentiates having such connections and means of influence?), of course the bias given to the parish, and the extent to which they will be committed, will be much greater,—and hence, when the presentee comes to preach his trial sermon, the people are really not in a frame of mind to bring their own judgments fairly to bear on the merits of one service. They may think him better than they expected. But still, it is a different thing to give up the views and impressions which they previously received;—meetings and parties have been formed with a view to opposition, at which individuals become committed and pledged to oppose:—a single sermon is seldom, even if heard with perfect impartiality, likely to break down such opposition,—and the judgment formed is not even the fair result of their opinions of the sermon, supposing that an opinion formed after one public service, ought ever to be acted upon by the Church.

Nay, if prejudiced in any way against the presentee, it is *not even necessary that they should have been in Church to hear the service*. They may dissent, whether they heard the presentee or not.

The interference which is thus anticipated from the Presbyteries, in thus biasing and influencing the opinions and views with which the people are to hear and decide upon the presentee, implies no disrespect for the Church or the Church Courts. The remarks of Lord Moncreiff apply most justly to such a case.

I have perfect confidence in the justice and soundness and fairness of their decisions, or, if they err, in the sufficiency of the means of appeal, when they are to act in a judicial capacity before the whole Church, with the controul and under the check of publicity in their proceedings, and the consequent influence of public opinion. In that character and capacity we can rely upon the exercise of their judicial functions when called upon to decide upon grounds of objection stated to them, whether general or particular, to the presentee—grounds on which they are to form their own opinion and judgment—the validity of which, in respect to all his ministerial gifts and qualifications, the presentee can bring to the test, by appeal to the Synod and Assembly, and may ultimately have tested by a committee of the Assembly appointed to examine him, to hear him preach, and judge of the sufficiency of the grounds on which he has been rejected.

But it is a very different thing when you open up to men the means of exercising—apparently, too, with a laudable and good object—a secret and private influence among neighbours and acquaintances, by the reports spread of their own wishes and opinions—by hints, sufficiently significant at first, and rendered much more pointed as they are repeated and commented upon, as to the style of preaching, and the sort of person they had hoped the good people of A. would have had—by regrets that the patron is not going to attend to the excellent recommendations he has received, or to the wishes of the people—that, after all, the parish is to be made a job of;—when you open up,

in short, to men acting without any responsibility, by private influence and secret suggestions, such a field for the exercise of influence as the direction and bias of the opinions of a vacant parish, and of the impressions with which they are to take the trial service of the unlucky presentee, against whom so much may be directed, without, in fact, one thing really 'personal' to him—to 'his ministerial gifts or qualifications,' being said or even known.

Let it be remembered, that each case of a Veto which occurs in a district, leads in other parishes to the power being again exercised. The people of B. are the more easily induced to do that which the people of A. have already done.

Each case of influence exerted by the members of a Presbytery, encourages, facilitates, and leads to the same results in other parishes, and prepares the people to be guided and biassed in that way, and from that quarter.

In most of the observations I have hitherto made, I have assumed, that the motives leading to rejection, however biassed or influenced, may be conscientious, and that there is no disposition to exercise the power, with a view to secure the selection and appointment to themselves—or from a preference for another person—or, generally, from aversion to the nomination of a patron—or from the result of improper canvassing and intrigues in the parish, either by candidates or by parishioners themselves. And I have hitherto considered the Veto, according to the theory on which it was proposed, as intended only to give an opportunity to dissent against a choice freely made by the patron, on his own responsibility, and without either dictation or choice by the people.

But let us consider dispassionately what demands are made on one's confidence in human nature, when it is imagined that the system, which gives absolute and irresponsible power on a matter of such interest and excitement to the people, is to work according to the theory of its projectors, and that the causes I have adverted to are not largely and frequently to operate, or that the measure is not practically to secure election by the people.

It may be true, that, in many of the cases which have occurred, the people have not as yet fully understood the irresponsible nature of the power entrusted to them, and have not been able to throw off the feeling arising from previous understanding that dissent implies the statement of some objection. But the nature and extent of the absolute right to reject, and of the power to dictate the selection of the clergyman, which it implies, will soon be more thoroughly understood; and each case, in each district of the country, in which the Veto is exercised, will speedily and effectually dissipate the remains of such a wholesome and proper feeling. Every month has tended to do so. And in many instances, sermons by members of Presbytery on the nature and extent and importance of the Christian liberty of the people, and the importance to themselves of acting upon and using it, have made them fully understand that their power is absolute and irresponsible.

Again, all candidates anxious to secure an interest in the parish, of

course take pains to point out that if the people choose to exercise the power they have—if they choose, before any one is presented, to shew that *they know their power and mean to exercise it*—if they make that resolution sufficiently apparent, the patron must practically yield the selection to them, or must engage in a long and disagreeable contest, during which the Church will be vacant, and the people will take a keener interest in the matter.

If your Lordship will peruse the evidence of Lord Moncreiff in March 1834, before the Patronage Committee, you will find that it consists of two parts,—one a most conclusive and powerful statement of the evils attending popular election, illustrated by many impressive instances of the operation of such a system, taken from his own experience or that of others, from whom he had full opportunities of obtaining valuable information on the subject;—and, secondly, of remarks in reference to Dr. Chalmers's motion in 1833, and of the reasons why he believed that a Veto would *avoid all the disadvantages of any of the modes of popular selection*, on which his opinion had been asked, and given so emphatically. In the passage already quoted, he condemns in the most decided terms the nature of a choice to be made by the people out of a list or leet of candidates whom the patron or some other body might select and propose to the people, and he states how differently he supposed the Veto or Dissent, as he termed it, would work. ‘I have not the smallest idea that the dissent ‘of which I speak, would have the least resemblance to a popular election.’ Among other reasons he explained, that in the *system of election*, the people must have the *choice or selection*, which would lead to ‘every degree of contest and cabal, for the purpose of securing the object ‘of one particular person being named. But ‘*here*’ (*i. e.* in the Veto plan) ‘they have no such choice—they *never can have it*. The person ‘is presented to them by the lawful patron, and his presentation is so ‘far sustained. It is for them to say whether they dissent from it or ‘not.’ He then explained that he believed there would be very few examples of the dissent being given, except ‘on very strong and well ‘rooted grounds.’ The notion that the people, finding their *power* to be supreme, would thereby secure the choice or selection either of one particular individual, or enforce a right to choose out of a list to be submitted to them, or of canvassing going on through the parish in order to obtain the support, which the candidates knew would dictate to the patron the nomination of the person who had that support, as the only chance of his presentee not being vetoed; in short, the notion of the right of rejection being used as a means of exerting their *power* to dictate and command the selection, seems never to have crossed the mind of my most excellent and esteemed friend, who judged of mankind at large by his own deep and strong religious feelings, and his own sacred sense of duty.*

* Whether, in March 1834, Lord Moncreiff contemplated retaining the

Dr. M'Gill's knowledge of the character of the people, among whom he had so long laboured as a minister, was different : and he predicted, before the Veto passed, that they would soon use the Veto in order to ensure direct nomination and choice.

Your Lordship would remark, that in the Pastoral Admonition issued by the General Assembly in 1835, they specially adverted to the reliance they placed on the *plan* of the Veto law being properly understood and acted upon by *patrons* as well as by the people, and their conviction that it would not work well if not understood and attended to in the way contemplated '*by its framers*,'—for the admonition (singularly enough for an exhortation from the Assembly of the Church) seems more in the strain of an expostulation from those who framed the act, than of reproof from the Church, and is somewhat in the tone of complaint and regret that the objects and views of '*its framers*' had been misunderstood, and that the Veto law had been, or would be, turned to objects and used in a way never contemplated by them.

Perhaps, in reading the reference in the Admonition of 1835 to *patrons*, your Lordship may have supposed that the Assembly intended to intimate that they thought the patrons had not sufficiently attended to the wishes of the people: The fact was the very reverse. Many complained that even then, in the course of the first year, the patrons had practically given, in many instances, the people their choice, and so that the evils of popular election, or of selection from leets or lists, had been introduced,—as if the patrons could be complained of for yielding to the power, with which the Assembly had so unwittingly armed the people, and which the latter so soon came to understand and enforce.

Accordingly, in the year 1836, when a motion was made to '*declare that patronage was a grievance*,' and to appoint a Committee in order to get rid of it, most of the speakers, both of the advocates of the Veto law, and of the opponents of patronage, (for the discussion was *chiefly* between them), complained more or less—the one class that it had not produced peace and quiet in parishes—the other, that the patrons had yielded too much to the people, which might explain the evils which had occurred. The motion was seconded by my friend Mr. Colquhoun of

important checks upon the exercise of the Veto, which Dr. Chalmers's motion in 1833 contained, I cannot exactly, from his evidence, make out. From his contemplating a motion '*to the same effect*,' or nearly to the '*same effect*,' I presume that he did—for the *distinction* between the proposal he afterwards made in May 1834, and the motion in 1833, is, as I have shewn, essential in point of principle: And the other witnesses examined, who had approved of the motion in 1833, had all stated that they considered the check or restraint of a right to appeal to the Presbytery, and of that body investigating whether there was '*truly any objection personal to the presentee, founded on his ministerial gifts and qualifications*,' or whether the opposition originated '*in corrupt and malicious combinations*,' as most necessary and important.

Killermont, who attacked patronage altogether, and maintained that 'the constitution of the Church' was, 'that a small and select body,' (I presume the Session,) 'should have the selection of the man whom they 'should offer to the congregation,' (taking the view of the act of Assembly 1649 or of 1690, when patronage was abolished), to be 'the constitution of the Church,' He said,—'The Veto act, it was said, would bring peace: He must say that it had not produced peace, and THEY HAD SEEN REPEATED PROOFS TO THE CONTRARY.' In a previous part of his speech, he also alluded to the notion 'that the Church had now tied their cords 'around the patron, and bound him so, that he could do no mischief;,' and explained that, in so far as the Veto had done any good, (in his opinion), it was because the patrons had in many cases 'denuded themselves of the power which the law gave them,'—bearing testimony to the unquestionable fact, that it had led in various cases, in the course of two years, to that very state of things against which the excellent mover of the Veto had been persuaded that he sufficiently protected the interests of the Church and of religion by this very change. Mr. Colquhoun's arguments were met by one of the most zealous defenders of the Veto, the Reverend Dr. Simpson, who exposed the evils of all the systems of popular election,—and then, after a general assertion that the Veto had worked well,—went on to say, 'It is not wonderful if the 'Veto act has not worked well. I enter my complaint in reference to 'this against various parties. I would complain first of the patrons 'themselves. They have not understood what the Assembly considered 'to be their proper position under this Bill.' Then he said, if any one had not been careful in the selection, that individual could not be defended. 'My complaint is, that the patrons, instead of doing what 'the Assembly intended them to do, have done nothing: THEY HAVE 'HANDED OVER THE ELECTION DIRECTLY OR INDIRECTLY TO THE PEOPLE.'

In the very powerful speech which Lord Moncreiff made against the motion,—(full of matter of the highest interest at the present moment, and deprecating any application by the Church to Parliament for any change of any kind in the constitution of the Church),—I do not find that the complaint of Dr. Simpson on this point is denied.

Mr. Dunlop, one of the principal members of the present Committee, answered Lord Moncreiff at length, and specially complained of the working of the Veto act, as he had done, indeed, in the preceding year. His speech is instructive as to the views with which, after fuller experience of its practical effects in bringing about popular election, the right of rejection is now pressed upon Parliament. He said, 'It had been alleged that he and those who acted with him had accepted of the Veto 'as a sufficient antidote to patronage. If such had been the case, he 'admitted there would have been some ground to charge them with inconsistency, but the truth was, they *never intimated their satisfaction* 'with the Veto. He did think that it would render the yoke of patronage lighter, but *when he saw the working of that act*, he resolved 'to fight under the banners for which his fathers fought. He admitted 'also that considerable practical good had resulted to the Church from

'the act. It had at least been effectual in excluding in one case, and 'in leading patrons to be careful in making selections in accordance 'with the wishes of the people; but *the chief benefit had been in patrons 'allowing the people to make their own choice.*'

He then referred to cases in support of his views respecting popular election. 'He held that patronage was grievous, because it was 'contrary to the spirit of the Scriptures, and upon that broad ground 'did he seek its abolition.'

Mr. Dunlop stated, that since the preceding Assembly, there had been in all sixty appointments,—fifteen were to the new Churches, where there is no right of patronage. Of the remaining forty-five, he stated, with satisfaction, as a proof of the only good that the Veto could do, that in *twenty-four* cases 'the patrons had either devolved the choice over on the 'people, or taken at once their man.' Of the other nineteen, where the patron selected, 'there were six cases, or nearly a third of the whole, in 'which the Veto had either been put in force, and litigation had followed, or in which heat, division, and animosity had prevailed.' His object was to show, that the Veto act worked ill, on *its proper principle and plan* : That it produced divisions in parishes,—that it *was often exercised in proportion to the attempts to present by the patron*,—'that if 'it worked well, it **HAD BEEN BY PRODUCING AN ABANDONMENT OF 'PATRONAGE**;'—(Is this the view of it in which Dr. Chalmers thinks that it has worked well?) 'and **HIS OBJECT WAS TO SECURE THIS RESULT 'in ALL CASES, AND TO ALL PARISHES.**' More important evidence on the matter of fact cannot be desired.

These opinions, I have not a doubt that my learned friend means to promote, so far as he can, by the measures which the Committee at present recommend. What has occurred subsequently, no doubt tends to recommend the enforcement of the Veto in the meantime, even more to him, and those with whom he concurs,—for, as I shall afterwards notice, the further working of the Veto law has tended to deprive, more generally, patrons of any selection in the nomination of ministers, and to compel them, to surrender to the people a choice, which ultimately they saw the latter could effectually secure for themselves, by a Veto on the nomination of any one but the person they chose to have.

Indeed, the fact has since become too notorious to be disputed any longer, and if the Veto has found more favour in the eyes of the opponents of Patronage, it is chiefly because it has tended so much more than *they* anticipated to secure *their* object,—that of popular election, in one shape or other, by the people.

But it is always to be remembered, that if such are the results of the Veto, these are consequences quite adverse to the principles on which it was proposed, and to the objects which it was intended by its authors to promote. Nay, it was proposed in the belief and the hope that it would secure the Church against these results, *as very great evils*, which the authors of the Veto anxiously desired to exclude.

It is now advocated by the leading opponents of patronage, who, within so short a period, declared their disapprobation of the measure.

Their reason, for this change of feeling in regard to the measure, is obvious.

But the facts which recommend it more to them, prove, beyond a doubt, that it has failed to produce the results which *its authors* proposed to themselves,—that the Pastoral Admonition and Reproof of 1835 has had no effect, (and who ever imagined that it would ?) and that we are now to consider the proposal of giving legislative authority to the measure, after it has been proved, in practice, to be a very different engine from what was represented by its sanguine projectors.

If, however, the abolition of patronage is the real object,—if the recommendation of the measure is, in truth, that it has promoted that object which the great majority and active members of the Committee have in view, let us understand this at once:—Let the object be fairly avowed, which is to be attained by the proposals and claims of the Church. It is at least desirable to know that the object is to secure that ‘fatal boon’* which many ‘so ignorantly’ demand.

The statements to which I refer, by one of the ablest *defenders* of the Veto, and also by one of the leading members of the present Committee, relieves me of the necessity of quoting instances *before* the debate I allude to as to the effects of the measure.

The people, in many instances, very soon took the matter into their own hands,—and in a great many instances the patrons, seeing the effect of the measure, have given up the duty and responsibility of selection to the people, or have given the people the selection from a list,—waiting the result of the legal trial of the question as to future cases.

The patronage of the Crown has been in many cases so defeated,—the people receiving their choice or selection out of a list, (the very mode condemned by Lord Moncreiff, in the passage already quoted), in other words, they have got practically their choice.

Your Lordship heard, in the course of the last month (August), an amiable Scotch nobleman (the sincerity of whose interests in the religious concerns of his country no one will dispute), complain in the House of Lords, on occasion of a question put by Lord Brougham, that under the system of administering the Crown patronage (which the Veto has introduced), a sort of ‘preaching match’ was got up in parishes, most injurious to the interests of the Church.

The result has been, both as to the Crown patronage and that of individuals, that as the people shewed in many instances that they *would have* their choice, a list of candidates is often given to the people, or they are sometimes desired to frame a list, or are allowed at once their choice.

I take as an example one of the many cases which occurred within

* Lord Jeffrey—opinion in the Auchterarder Case.

the year which followed the debate of 1836,—that of the parish of Cupar.*

Captain Wemyss, the member for the county of Fife, writes to the Session Clerk, (21st January 1837)—I presume by authority, —‘ That Lord John Russell having resolved that the heritors and ‘ male heads of families in communion with the Church of Cupar, ‘ shall have a free voice in the choice of their pastor,’ &c. ‘ and his ‘ Lordship having deputed the details of that resolve to me on behalf ‘ of the Crown,’—the member goes on to desire steps to be taken to obtain, within *fourteen days* from this date, the *opinion* of the parish. Then Captain Wemyss states, that as certain heritors wish ‘ this to be ‘ settled by BALLOT, in order to secure to the communicants a *free* and ‘ *uncoerced* Vote,’—‘ I have no objection to *that course*,—provided only ‘ the communicants ballot,’ &c.

The proposal for the ballot† was negatived by the communicants,—291 voted for one gentleman, being the *second minister of the parish*, 196 against that individual,—of the latter 44 were disallowed on a scrutiny or investigation carried on by Captain Wemyss.

Captain Wemyss made some report on the subject, which led to the following letter :—‘ *Whitehall, February 14, 1837.* My dear Sir,— ‘ Lord John Russell having duly considered the report and documents ‘ on the subject of the vacancy in the parish of Cupar, conveyed in your ‘ letter of 8th instant, has desired me to say, that in *consequence of the ‘ very improper canvassing* which appears to have taken place in that ‘ parish, he cannot issue a presentation in favour of Mr. Birrell. Lord ‘ John Russell desires that a list may be given of neutral men, the ‘ names of whom are herewith subjoined. I have only to add, that ‘ so soon as these gentlemen have had a *fair hearing*, you will be ‘ so good as to report to him the result. Faithfully yours,

(Signed) ‘ CHARLES GORE.’

The Presbytery unanimously thought that the charge of improper canvassing should be investigated. The kirk-session and two hundred and forty-six heads of families made a similar application. That was

* In many other cases, similar proceedings have occurred, where a choice has been given to the people, or a power of selection out of a list,—and the details as to the manner in which it was managed,—of the tracasseries and dissensions in the parishes,—the public meetings,—the placards and pamphlets issued on the occasion,—and the animosities and bitterness which followed, whether the Veto ended in rejection or not, would, if collected from the country newspapers, exhibit a lamentable picture of the effect of this measure in marring the peace of the Church of Scotland, and in carrying even into the quietest parishes, one of the most fruitful causes of division and heat. I take the case of Cupar, however, as it happens to combine a variety of illustrations of the system.

† In several other cases, the individual has been chosen by ballot.

refused,—very properly ;—for the error lay in the first step, and in the belief either that canvassing would not, in such circumstances, take place, or that imputations of it by the dissatisfied minority would not be made, so as to create dissension and discord in regard to the election. The Presbytery, thinking the election which had been made a fair one, and naturally hurt at the disappointment of their co-presbyter, whose happiness in the parish could not but be injured by the whole affair, refused the use of the pulpit for the intended competition, and a presentation was ultimately issued to one of the list,—who, much to his credit, as soon as he heard he was on Lord John Russell's list, wrote, to say that he would ' not preach as a competitor for the vacancy.'*

* In alluding to this case, I take it simply as an illustration, which very early occurred, of the working of the Veto. The advisers of the Crown, fully aware by this time of the effect of the Veto, tried first a popular election. As might be expected in such a case, and as will happen whenever the population of an important parish is to be consulted on the subject, in such a way, politics and secular interests immediately operate. A return was made of this popular election : The politics of the individual happened to be widely different from those of the Member. The Member made some report upon it,—the Crown thought that there had been improper canvassing in the parish, and on that account refused to present the individual whom the majority had named. The parties denied that there was any canvassing : but as an illustration of the working of the system, the fact is immaterial, for the charge was strenuously made by the discontented minority, and the election, admittedly made by a large majority, was most keenly attacked—on the ground, that a popular election had been marked by improper canvassing ! The Crown then tried the other course. A list was then given of individuals, of whom a ' fair hearing ' was to be allowed. As the Presbytery refused to allow them to preach in this particular case, from some notion that the character of the parish should first be vindicated against the charge of improper canvassing, the competition in this instance did not take place. But 161 of the communicants actually dissented when the roll was called,—and thus, though not a majority sufficient to ensure rejection, the greatest heat and bitterness was exhibited in the parish, and the utmost division and discord took place ; an evil to which I shall afterwards advert, as frequently attending the Veto, even when the presentee may not be rejected. On the day when the Veto was to be allowed placards were posted through the town, calling on the communicants to support the presentee, and imputing the utmost arts to the other party to get up unfair opposition. The minority brought the case up to the Assembly, in order to get the presentee rejected,—and, as far as I can judge from their own statement, they had dissented and tried to Veto him,—first, because they wished the person of their own choice ; and, secondly, because they said that the presentee, being a violent enemy of patronage, ought not to have stepped in to interfere with the result of the election which had taken

Though the competition here did not take place, that was accidental. In other cases, *all the gentlemen on the list preach successively to the congregation as rival candidates* for the Church. In most instances, several have been recommended by parties in the parish, and have made interest for support. Of course, it is comparatively much more easy to obtain recommendations which will lead to a person being placed on such a list, either by the Crown or by a private patron, than would ensure the selection of that individual, if the responsibility of ultimate choice were left to the patron. This ‘preaching match’ is a source of great interest in the neighbourhood,—the subject engrosses the whole surrounding population,—every exertion is made, by different parties, to uphold the individual they like best; and then there is a vote upon the subject,—frequently, indeed I may say always, a vote by the congregation,—for the notion of confining this matter practically to the communicants is absurd.

Is this a decorous, a seemly, a decent procedure for the nomination and appointment of the clergymen of the Established Church? Is it likely to secure the selection of men of learning and talent,—of independent character,—who disdain the arts necessary to acquire favour on such first impressions, or a previous popular interest in the parish,—who enter the ministry with higher views and a different estimate of pastoral duty and of the pastoral office,—and by whom such a competition, with all the accompaniments, would be felt to be most revolting and degrading.

Is there any one so ignorant of human nature as to suppose, that in a short space of time, the observations of Dr. Forbes and Dr. Simpson, already quoted, will not be fully verified, and that the attention of licentiates will be directed to the mode of preaching likely to be popular, as the only and sufficient object of study? Every year will tend necessarily to induce, indeed to compel, licentiates to think more and more of the means of recommending themselves to popular favour; and the more frequent the disposal of parishes on this plan, the more instances will be exhibited of the success which will attend previous canvassing and influencing the parish in favour of particular candidates, and of the efficacy and importance of the various modes in which interest and exertions may secure preference over others. This plan of ascertaining the individual whom the parish prefers, gives the prize to the result of *numbers*, without regard to any other circumstance whatever, and of course, in every such case, the risk is run of all the effects of popular election, which many of the advocates of the Veto so strenuously deprecate.

place,—and they quoted some published speech by this minister against patronage. They seem to have had no other grounds for their dissent. Yet being dissatisfied with not getting their choice, they took the strong step to dissent in such numbers, and to bring it up to the Assembly, although against the individual presented they had not in truth an objection to state.

The very fact that a great many of the Crown patronages were, in a short time, disposed of in one or other of the modes resorted to in Cupar, sufficiently proves how well founded was the complaint of Dr. Simpson, that the patrons had misunderstood the intention of the Assembly, and how soon the people, in many districts, had found out, as Dr. McGill predicted, the power which the Veto necessarily placed in their hands.

I must again urge it as a most important point for consideration, that though this has been practically the result of the operation of the Veto, since patrons have been compelled, or induced in the hope of peace or popularity, to give the people their choice out of a list of candidates who are to preach before them, *it is not the plan or principle of the Veto in theory.* The Veto was *not recommended and introduced because* it would lead to such results, and to such a mode of securing election by the people. All that the *theory* of that measure contemplates is, that the patron is to select with care, anxiety, and a wish to get an acceptable person; and then, that the Presbytery are to say to the people, 'Do you find cause on your conscience, as Christians, to object to that individual as your pastor: You shall hear him preach. On that account or any other, we do not ask on what, can you say you will not be edified by him.' This theory assumed that the judgment was to be formed on *one* person, and dissent expressed only 'on strong and deep-rooted grounds.' But the proposer of the Veto never thought the people were qualified to *select*,—and earnestly and anxiously protested against that mode of election or choice, which is exhibited in giving the people an opportunity of selecting or choosing out of a list of individuals, whether framed by the patron or any other body. Not one of the arguments used by Dr. Chalmers, either to prove that the people ought to have a right to *reject*, apply to, or support the giving them a power to *choose* and *select* the person who ought to be their clergyman.

There may be parishes in which a considerable number of persons may be qualified to form such a judgment. But if the operation of the Veto shall generally produce the result I have adverted to, it does appear too extravagant to say, that, throughout Scotland at large, the people are qualified to form such a judgment.

The necessity of giving the people their choice, either by a free selection, or out of a list of candidates, (which, after all, may not ensure against a Veto), will of course be greatest in the very parishes where the people are *most unfit to be trusted with the power*—where they have shewn the disposition to use the Veto, so as practically to gain this object, if not at once conceded to them, and in large populous parishes where the Crown or other patron looks more to the popularity, which, for the time, may be gained by throwing this boon to the people, and where the elements of strife are greatest.

In all such cases, the very spirit which renders the concession necessary, only exhibits the more how unsafe, as the mode of obtaining

ministers of the Church, will be this practice of leaving the people to choose among rival competitors. I need not allude to so plain a matter as that, either when the presentee is appointed to preach, or when there is to be a 'preaching match' between rival candidates, the people may be misled by sermons being preached, either wholly or partially, not the composition of the preacher. The nobleman I have referred to mentioned one case where a Crown presentee had *obtained great credit on this trial*; but as he had chosen unluckily to take his sermon from a very popular, though recent volume, which had found its way already to Scotland, (a volume of Mr. Melvill's sermons) the plagiarism was detected, I believe, by a neighbouring clergyman who was present, and on the deception being stated in bar of his settlement at a *subsequent stage*, he ultimately withdrew. I need not advert to such an occurrence, which, as Lord Moncreiff says, may be easily and more dexterously managed. But laying it out of view, can it be said that selection by congregations at large, in all parts of the country—in all parishes, without reference to the state of the population—can be taken as a safe mode of nomination?

Most certainly there is not one of the arguments for the Veto scheme which supports such a notion,—and the only question is, whether the theory previously formed of the manner in which the Veto would work can be relied on, or whether the actual effect of the measure will not, and has not, led to the people obtaining practically their choice, either by a free selection, or out of a list of candidates appointed to preach before them:—that is to say, whether it has not produced results against which its framers anxiously wished to guard the Church, and which the measure was not intended to produce.

Cases soon occurred which marked the resolution of the people to use the Veto in the way in which those who opposed the change had predicted must infallibly be the result, and which amply illustrated the manner in which irresponsible power on any subject of interest, when entrusted to the people, will be employed. In the course of mentioning these cases, illustrations will occur of the interference of members of Presbytery during vacancies, in a way which will operate most unfavourably both on the respect for the clerical character, on the nomination of ministers, and the usefulness of the Church.

The parish of Logie Easter became vacant in the beginning of 1837. The patron, Mr. Hay M'Kenzie of Cromarty, most anxious to find an acceptable person, and knowing well the power with which the people were armed, applied to the Presbytery to allow the 'intended presentee' to preach, that he might ascertain whether he was acceptable before presenting him. In the meantime it appeared that the people, knowing that they could carry their point, 'applied to a minister to 'accept of the charge,' which he 'did, without any reference to the 'patron at all, and actually before the parish was declared vacant.' Those who applied to this individual to accept the parish declared that they would have no other. The individual applied to was a neighbouring clergyman. He agreed to take the parish if the people gave him

the call. Thus the parish was disposed of by the people without any application to the patron whatever. The patron then wrote to the Presbytery, stating all these facts, and proposing that the people should have their choice of five clergymen, whom he named, tried and known already in other charges. and of the highest character.

A meeting was held of heritors and communicants, when the patron's proposal of giving the parish a list of five clergymen of approved talents and character, out of which to choose, was taken into consideration. But the session and majority of those summoned to the meeting declared that they had no intention of accepting any of the five gentlemen—'their minds being already and determinately made up, to make 'choice of no other' than the individual whom they named, and to whom they had offered the parish.

Lord Brougham, well aware that such is the necessary result of the measure, put, in the course of his opinion, the question as to the Veto thus,—'Well, say the congregation, whoever you choose shall be the 'man, upon this only trifling condition, that you must choose no other 'person except the man whom we choose. Who is the chooser there? 'I think the second person is the chooser rather than the first.'

The patron very properly then presented a gentleman of unquestionable character and qualifications. It turned out, that in this parish, so burning with zeal for the nomination of their minister, and which had been previously filled by a most exemplary person, that there was a roll only of seventeen communicants, of whom, according to the previous intimation of their resolution, thirteen vetoed the presentee.

All these persons, who had thus fixed, in the first instance, upon another man, who had declared they would have no other, and some of whom even repeated this openly to the Presbytery, when they gave their veto, still took the declaration that they were actuated solely by a conscientious regard to their spiritual interests.

As an illustration of what will go on in such cases, it appeared when the dissents were taken, that one name had been inserted as part of the completed Roll signed by the deceased incumbent, but above the deceased's signature, and that this person's name had actually been inserted by another clergyman, a member of Presbytery, after the death of the deceased, by whom the Roll had been made up and signed. It was said that the person had been in fact a communicant, though his name had never been inserted. But this was of little moment, for the rule is precise as to the completed roll of communicants, which had been regularly signed by the deceased clergyman, and the party came forward to give his dissent without notice from himself or the member of Presbytery, of this irregular proceeding. The handwriting having been remarked, the fact was discovered, and his veto could not be taken. But this is a curious illustration of the extent to which the interest and the interference of members of Presbytery, the adjoining clergymen, may be carried in the preparation for a veto, and of the manner to which they may interfere.

In this case it thus appeared, beyond all doubt, that the presentee was vetoed because the people had fixed upon and were determined to

have another individual, and no one else; and that this was openly stated, according to the admission of the Presbytery.

The Presbytery, startled by so striking an abuse of the Veto, took the very strong step, quite incompetent under the Veto law, of allowing to the presentee a proof of this caballing and combination for an undue purpose, though without *deciding what should be the effect* of such facts. That this was quite incompetent under the Veto law was very plain. But no proper appeal was taken against the deliverance of the Presbytery; and the General Assembly, 'without pronouncing any opinion as 'to this sentence,' found that it had become in this case final, and that it could not now be recalled, and that the investigation therefore must proceed.*

That some notion may be formed of the scenes which take place in country districts, in consequence of this most anomalous and indecorous and undignified proceeding for a church to adopt, of taking the veto or dissents of the people, I may quote the statement of the Presbytery itself as to what occurred in the parish church when the Veto was taken. When some of the people openly declared, in giving their veto, that they would only have the man they had fixed upon, the agent of the patron and presentee insisted that the Presbytery *should record these declarations.*

The Presbytery, avowing themselves most friendly to the Veto, but startled by so very glaring an abuse of it, had proposed to do this, when, as they state, a scene of the greatest violence and indecency took place in the Church. One of their own number, as they stated in their printed papers to the Assembly, harangued in the Church, and in the presence of the people, in the most violent terms, against this proposal—denied that any avowal of motives could affect the validity of the dissent, 'and even illustrated these doctrines in terms the most outrageous, and which suggested to an excited multitude the possibility, if

* The investigation ended in the result which might have been anticipated. The facts were fully proved—the letters passing between the elders and the neighbouring minister, by which the latter accepted the offer of the parish from the former, the resolution at the meeting referred to, and the declarations by the dissenters, were proved. But the Presbytery found, and rightly, under the Veto law, that the parties had committed no illegal act, and that the Veto must take effect. Consistently with the Veto law, no other decision could have been pronounced by the Church Court. A bad motive is no ground for disallowing the dissent of any man,—and for the most conclusive of all reasons, because it is incompetent under the Veto law to *inquire* into the motives which prompt to the exercise of a right, for the use of which the party is not accountable to any one. The patron of Logie Easter has been obliged to give up all the gentlemen whom he originally proposed, and the people have at last concurred in the choice of another, after the parish has been vacant *nearly* two years and a half.

‘not the propriety of escaping injury, by treating with insult or violence such as entertained different sentiments from him. For instance, ‘Prove them all rogues,’ said he. ‘What then? I defy you to refuse taking their declaration.’ ‘Supposing you refuse taking their declaration, what then? I defy you to cram Mr. Macbride down the people of Logie’s throat, without the sword and bayonet.’ ‘That may do for Ireland, but it will scarcely yet do for the Presbytery of Tain.’ ‘Bad as we are, you’ll not get military in Scotland to act for you. You must look elsewhere for them.’ On a member getting up to check such improper and exciting language, he was received by a general hiss from the Church gallery, when the said appellant exclaimed ‘silence! I am ashamed of you; if there is any more improper behaviour in the house of God, I’ll do nothing more for you. *Wait till you go out, and do then as you please;*’ and lest this significant language should be misunderstood by an illiterate and poor people, he repeated in Gaelic, ‘*Do as you like when you get to the outside of the door.*’”

The Presbytery solemnly stated on record, that they had experienced threats of personal violence.

Such are the scenes which will mark the operation of this objectionable measure. In this sort of appeal to popular votes, which the veto is, the members of Presbytery will often, as an inevitable result of the interest which (it may be, from good motives at first) they may take in the matter, become as excited as the other parties concerned. The whole affair will assume a complexion most injurious to the interests of religion, and degrading to the character and functions and office of the ministry.

I shall not go over the details of the cases on the lists of a later date than April 1837. After that period the effect of the measure in compelling patrons to leave the choice to the congregation, or to appoint at once the person the latter had previously fixed upon, has been so notorious that no one can dispute the fact. It is more important to shew *how soon* the measure began to operate in the way which was not intended or contemplated by its framers. It is obvious to every one that the effect of the measure must yearly increase; for every one instance leads to additional cases of the people requiring the selection to be left to them, which they have the power to enforce.

Up to the period I mention. (spring of 1837), the number of cases in which the patron had not ventured to *select*, but had given the people their choice, or appointed the individual they chose previously to fix upon, amounted to *fifty-one* cases out of a total of *ninety-four* vacancies. In *fifteen* other cases there were active measures taken in the parishes to secure the election and nomination of the minister, although the numbers were not such as to effect the object. The same steps may have been taken in other instances of the lists I refer to; but in fifteen they were so marked and decided as to become publicly known in the neighbourhood.

In many of the cases in which the choice of the minister had been

left to the people, the majority in favour of the candidate chosen was very small; and it is well known that in some of these cases the parish have not been satisfied with the result of their choice, and both among the minority and majority dissatisfaction is well known to exist, which probably would never have occurred if the choice had not been the result of competition, and if the people had not been taught to consider themselves entitled and qualified to sit in judgment on the qualifications of their pastors.

The proportion of cases, in which opposition was excited to the nomination of the patron, when he did not think proper to 'abandon' his right of selection, was in 1837 greater than in 1836, according to Mr. Dunlop's account of the year from 1835. The proportion in which opposition was created rose in 1837 to one half, (as nearly as may be,) viz. 8 out of 19,—while the proportion of cases in which the patronage was 'abandoned' to the people had more than doubled.

During the last two years the proportion of cases has greatly increased, in which the patrons, both the Crown and private patrons, have been compelled to abandon the patronage to the people; and the evils of popular election, or of a choice out of a list given to the people, have been exhibited in more marked characters.

Each year the resolution on the part of the people to claim and assume the power which the Veto law practically gives them, has been displayed more openly, and in a more decided manner. In one case, because the Crown did not present the person applied for, the elders of the parish, 'deputed,' they said, 'by all the male heads of families,' actually announced in a letter to Her Majesty's Secretary of State (Lord John Russell) that they had determined to veto the presentee before they heard him preach. In some cases in which the Secretary of State has not given effect to the first hints which were given to him, the presentees have been rejected in order to enforce due attention to the growing resolution of the people to require a free and unrestricted choice. Thus in one country parish, so early as December 1835, or January 1836, the minister of which was removed to a town charge, he wrote to Lord John Russell, intimating that he would not have removed, if he had not received a pledge, as he termed it, that the people he left should be allowed to choose his successor. Lord John Russell did not admit either this construction of what had passed, or the right to dictate to the Crown. The presentee, as might have been expected, after this communication from the clergyman who was leaving them, was vetoed, and the choice was then left to the parish.

It is unnecessary to multiply instances of the effect of the measure in producing popular election, or in compelling the patron at least to submit a list of candidates, out of whom the people, if they choose to take any, may select. The practice is rapidly becoming very general.

As might have been anticipated, the scenes accompanying the numerous cases of popular competition which have taken place, are such as attend every secular canvass and competition for office, in the disposal of which popular interest is felt.

I shall quote some passages from a statement compiled with great care from the information of clergymen and gentlemen in the neighbourhood, and the accuracy of which I believe can be most completely verified in every particular, by reference to individual cases. Many such indeed are mentioned in detail, so as to support every portion of the general statement.

* Where there is *competition* for the favour of the parish, all measures are pursued with much greater intensity of feeling, and strenuousness of purpose. There is still more urgent need for haste, if contending claimants are expected to appear.† Meetings have been summoned, and individuals have been active in seeking pledges while the incumbent was lying on his sick-bed, or was merely declining under the infirmities of age. Where there is no such previous warning, no time may be lost in making up for it; in a case of very recent occurrence, the sun had not set on the day on which an incumbent died in the prime of life, before agents were in full activity in the parish, advantage being thus taken of a near relative, who, of course, was precluded from coming so early to the field. And who does not recollect the case of Dron, in which the most offensive scenes were enacted on the day and on the occasion of the minister's funeral? Immediately, then, on the occurrence of a vacancy, a parish is scoured and canvassed by every man who thinks that he himself or a friend may have, in the chapter of accidents, a chance of success. The day of the funeral arrives, and the parish assemble, but not, it may well be said, under the impression that they

* Church Review, Nos. for April and May 1837. Having ascertained the name of the gentleman by whom this statement was compiled, a friend of mine has gone over the letters and information from which it was compiled, and has ascertained that it is drawn from information furnished by gentlemen of the highest respectability, and possessing undoubted means of information.

† It will be useful to refer here to the language employed in the Pastoral Admonition which the Assembly were obliged to issue within a year after the Veto came into operation, and which is *annually* repeated. The Assembly, in that remarkable document, declare that the Veto was intended only to give the people a '*negative* against the intrusion of any minister, whom as Christians they thought unfit, but 'not to confer any rights of a different nature; and *any attempts to wrest it to other purposes must defeat its object.*' This is a most material admission, when contrasted with its undoubted effects, and with the objects upon which those who originally did not think it went far enough, have now taken up the Veto. '*All canvassing and caballing, therefore, for obtaining the appointment of a particular person to be minister, and all combination beforehand for that purpose, are inconsistent with the principle of the act.*' Dr. Chalmers's expressions, also, in his note, are very emphatic as to the scenes which he plainly had in view in using them.

‘are paying a tribute to the memory of the deceased ; of him they are forgetful, and, whether they will or not, their thoughts are full of the contending applications made to supply his place ; passions have been already roused in favour of one or against another candidate ; leagues have been entered into to support one party, or to counterwork some other ; and in regard to an office which should be free from all such dealings, and especially at such a time, it is mournful for those present to witness, that around the remains of a minister of peace, the worst features are displayed that characterise the lowest political contest.

‘Such is the commencement of the vacancy ; and is it to be supposed that matters improve as the time advances ? Excitement spreads its contagious influence to those who once kept themselves beyond its sphere—those who were first in motion wax warmer in the strife—every motive is brought into play that is likely to have any influence—female energy is aroused—landlords address their tenants, and tenants their servants—provincial lawyers are employed to canvass all—by night and day the work is prosecuted—the cottage door is assailed during the hours of rest—intemperance is purposely produced that advantage may be taken of it—deceit is practised by one party, and dissimulation by another—and, perplexed and harassed by conflicting influences, persons have signed petitions for more candidates than one. To crown the whole, the pulpit has been rendered subservient to the canvass, and the solemn services of the sanctuary profaned as an occasion of promoting the preacher’s success. No one of these offensive features has been put down without its having been exhibited, in cases of settlement since the Veto was passed.’

Again—‘Is the person chosen under these circumstances always satisfactory to the parish ? It would be marvellous if it were so. Specific instances we leave our readers to recognise among the cases since the Veto. In election, the more respectable of permanent inhabitants have found themselves outvoted. A committee of managers have outwitted or dissatisfied their constituents. Where there are several candidates (as in Falkirk, Shotts, &c.) nearly equally balanced, the successful one has but a minority for his friends : even he who was thought at first to possess all perfection is soon discovered to abound in blemishes, and finds, perhaps, that his best support will not be given by those who were most zealous for his success. Here are no favourable circumstances for the entrance of a minister, and no cheering prospect for his future usefulness. Yet so it must often be, while such a mode of entrance is suffered to endure.

‘And is the prospect of peace in the parish likely to improve ? So far as experience of the Veto goes, the cases are in proportion more numerous in which matters have improved after open opposition, than after such popular elections. In these the dissatisfied sections have sometimes (and in towns only could they do it) built a new Church for their defeated candidate : the keen feelings that have been aroused do not quietly subside, but more readily pass into those of an opposite kind, the parties merely changing sides, but preserving their asperities ; an appetite unboundedly gratified during the canvass is

‘restless, because it meets with no food for indulgence; the unhappy circumstances created by the contest do not soon pass away; in one case, in which a session was dissolved in the conflict, no session has yet been formed again; and if we may judge from the experience of former times, where the short life of the Veto alone stops our calculations, we may expect that these election feuds will be frequently handed down from father to son with that zeal which is shewn about the less creditable, as often as about the more important matters of religious controversy.’

Again—‘Inflammatory placards, and declamatory harangues at public meetings, are among the more innocent measures resorted to; and when angry feelings have been awakened, the continued application of these means serves to keep alive the flame. Besides these, bribery, intimidation, intoxication, and the like, are the natural means for stimulating the worst passions of members of society—only not the worst, because not wholly excommunicated: and these accordingly have been abundantly resorted to. Even on the day of moderation of the call, persons have been brought forward on that solemn occasion under the influence of intoxicating liquors; and *having ourselves witnessed the fact in one case, we can easily credit what we have heard regarding others.*’*

‘What can be the issue of proceedings such as these, of which we have given but a sample out of what has come to our knowledge, but conduct the most inconsistent in itself, and the most humiliating for the people? Dissentients have afterwards admitted that they were ignorant of the contents of the papers which had been given to them to tender on dissenting. They have dissented against the very individuals whom they formerly favoured. In this respect the case of Urr was even stronger than that of Kirkmichael already referred to, many of those who had signed a petition for Mr. Burnside having dissented against him. In Lethendie, after a *majority* had petitioned for Mr. Clark, a *majority* dissented against him, forty out of the fifty-three being his own petitioners: in Mortlack fifty of Mr. Cruickshank’s petitioners, in like manner, dissented against him.

As might be expected, the parties interested soon resort to the aid of law-agents, in whose hands the contest assumes all the characters of a secular canvass. ‘To the activity of law-agents, Trinity Gask, Auchterarder, Dron, Urr, Kirkmichael, Marykirk, and Mortlach, bear ample testimony; and so might Kilrenny also have done, if the people had availed themselves of Mr. Andrew Johnston’s offer of the services of Mr. J. B.: and to this day the outstanding accounts still due in some of these parishes afford a continued reminiscence of the scenes that were enacted. By means of such agency, *persons are instigated to bind themselves by solemn obligations*, and brought forward in organized order, each with his several ticket previously left at

* Lamentable as the fact is, it is impossible to doubt the occurrences last mentioned in this paragraph.

his dwelling to remind him of his duty, and to direct him under what leader's section he is to marshal himself;—and is every one of the persons thus arrayed to be held “actuated solely by a conscientious regard to the spiritual interests of himself or the congregation?” It seems it must be so, for the act allows no proof that he is not, and affords no remedy though the fact were proved.’

In many of the cases the parties did not hesitate to declare that they had no objections personally to the presentee, but were resolved to exercise their rights, or to obtain another individual. ‘In Auchterarder, where so great a majority dissented, the presentee was on the whole well received by the great body of those whom he visited *immediately before* the moderation of the call; and some of them “declared to him, that they had *nothing against him*, but wanted to try the question of their right to keep out a presentee.” The same motive, we rather think, appeared in the meetings and cavillings that took place in Dirleton, where a “popular” neighbouring minister was the object of opposition. In Kirkmichael, it could not be objection to the presentee, for he had just before been selected as assistant; but the minister having died, a presentation was issued in favour of this same individual, and the parish was immediately roused to think that rights which the Church had given them had been invaded, and numbers accordingly bound themselves by solemn vows “not to allow the law which gave the rights to be a dead letter.” Neither in Dunkeld was it any objection to the presentee. In Nigg, the former minister having gone to Glasgow, wrote to Lord John Russell, reminding him that he would not have left the parish without a pledge, as he called it, from his Lordship, that his forsaken flock should be allowed to choose their next pastor. Lord John took a different view of the matter, but the people were persuaded by Mr. Lewis Rose that they had been deprived of what he had secured for them, and the unfortunate presentee felt the effects of this accordingly. In Marykirk, and in Monifeith, we believe, also, it was openly declared by some of the dissentients, at the moderation of the call, that they had nothing against the presentee, and that their reason for dissenting was because they had not had the choice.’

The regulations proposed in some subsequent year after the general Veto law was passed, declare that no one who petitioned for the presentee shall be allowed to give his dissent. There may be justice in this rule; but it is somewhat arbitrary, on the principles on which the Veto proceeds, and somewhat inconsistent. An individual may have been applied for from his character—he is presented—the people then hear him, and do not like him. Why are those who petitioned not to be allowed to dissent, and reject him as much as the others? The regulation was intended to prevent abuses; but it is manifestly most arbitrary and indefensible, according to the principle of the act. But above all, it is a plain admission that the people have no *right* in truth in the matter—that there is no such thing as this fundamental law—that the privilege is a mere matter of expediency and regulation, and that the practice of appealing to fixed laws of the Church is idle.

As an illustration of many of the facts which are contained in the above statement, I shall take another case, which happened in the subsequent year, as the facts were publicly stated in the same periodical publication at the time,—and the accuracy of which, the information of gentlemen in the neighbourhood given to myself, completely confirms. I quote the statement with the less reserve, because I have always understood that no blame whatever was attached personally to any of the clergymen who were candidates, on account of any of the proceedings which occurred. The scenes referred to arose entirely out of the excitement and keenness created by the contest, and in no degree from any conduct personally on the part of the candidates.

‘When the parish of St. Martin’s became vacant by the death of Mr. Currer, Mr. Fox Maule, then member for the county, addressed a letter to the heads of families in the parish, acquainting them with the course he meant to pursue in filling up the vacancy. He informed them, that should four-fifths of their body agree in selecting a qualified person to be their future pastor, before the 10th of July, that he would recommend the Secretary of State to present their nominee to the vacant parish. Mr. Maule’s letter made it necessary to hold a public meeting in the parish. Mr. Nairne of Dunsinane presided at the meeting, which was held in the Church; the result of which was, that Messrs M’Cheyne, Dundee—Miller, Perth—and Aitken, Auchterarder, were requested to come forward as candidates. To this list Mr. Liddel of Edinburgh was afterwards added. The two first declined preaching as candidates—they refused to enter the cock-pit of competition, and were therefore heard by deputation. Messrs Aitken and Liddel preached in the parish church of Cargill, to which place the parishioners were *invited by hand-bills*.’ It is then stated that two parties were regularly organized throughout the parish, with constant canvassing. ‘Ere the time allowed by Mr. Maule should elapse, it became necessary to hold another meeting, for the purpose of ascertaining which of the candidates was to be applied for. This meeting was so tumultuous and disorderly, and the language used during the wrangling that took place so unseemly and scandalous, that Mr. Nairne left the chair in disgust. He was speedily succeeded, however, by one, we suppose, of taste less fastidious, and of ears less polite. Mr. Nairne found himself, we fancy, very much in the situation of the conjuror, who raised a spirit which he could not allay. It required, in fact, now, a person of much more comprehensive tastes than Mr. Nairne to guide and sanction the meeting. Liar, and other opprobrious names, resounded in the house of God, which, for the time, seemed to be turned into a den of thieves. It was at this meeting that a most extraordinary charge was brought against one of the candidates, Mr. ———.’ I need not quote this part of the statement, for it was a very wicked and cruel calumny against a respectable clergyman. ‘When the vote was taken, it was found that he had nearly double the number of votes of any other of the candidates, almost one-half of the voters being in his favour. This did not, however, answer that criterion of concurrence which Mr. Maule

‘ had fixed for the parish, and after certain doings, unnecessary to be developed, a leet was finally fixed upon, consisting of Messrs. Aitken, Ritchie, and Rutherford, who preached in the church of St. Martin’s as candidates, by presentation of the Presbytery.

‘ The roll of male heads of families in communion with the Church not having been made up the previous year, required at the time to be adjusted ; and for this purpose, Mr. Craik of Scone was specially appointed by the Presbytery. The claims for enrolment were so numerous, and many of them of so equivocal a kind, and the objections brought forward by the contending parties were urged with such vigour, that the kirk-session might be compared to a registration court held on the eve of a contested election, were not the comparison too favourable to the Ecclesiastical Court. Mr. Craik found himself unfit for the task imposed on him ; and the Presbytery itself was obliged to undertake the work of completing the roll. It was then found that Messrs. Aitken and Ritchie were the only candidates about whom there was any division of opinion. Two parties were formed ; and, on both sides, most unscrupulous were the means adopted to secure a majority of the voters. The “ heats ” in the parish became so intense, that the neighbouring parishes of Collace and Cargill caught fire, and increased the conflagration. The “ differences ” became so malignant, that people from a distance were drawn into the vortex of contention. Agents from Collace and Cargill perambulated the parish, and canvassed the voters.’

Instances were then stated of the excitement which prevailed, and of very extraordinary instances of the asperity and keenness with which the contest was carried on. *Public houses were kept open by individuals taking an active part for one candidate or another ;* and the excitement became such, that two police officers were sent to the parish before the day for this sort of Selection came on. At last it was thought to be necessary that a civil magistrate should be present when the votes were to be given. ‘ While the vote was being taken, several stratagems developed themselves. We may give the following as a specimen. An old man had been sent, to a distance with a letter, which letter contained directions to retain him until the election was over. A messenger was immediately despatched by the opposite party to bring him ; but not being found, his daughter was admitted in his stead. In giving her vote, she, in the estimation of one party, acquitted herself like a man ; and it not being a case in which the Procurator-Fiscal felt himself entitled to interfere, her vote was taken down as that of the male head of a family ! But enough of such sickening details has been given ; and we need only farther add, that at the close of the meeting, Mr. Aitken was found to have a small majority in his favour. The opposite party clamorously maintained, that this was not the case, and insisted that unqualified persons had been allowed to vote for Mr. Aitken,—an assertion, however, that was manfully contradicted in the public journals at the time.’ The result gave only a small majority to one of the candidates, and of votes so unsatisfactory that the Government appointed the other.

It is in reference to this and other cases, in which the occurrences, both during the vacancy and at the veto, have been equally notorious and painful, that Dr. Chalmers, I presume, remarks on the probability of the parish, during a vacancy, exhibiting the scenes of a political election—and that he proposes, either to disfranchise a whole parish, or to disallow the votes of all persons whose conduct, in the opinion of the Church, *ought to have prevented them taking* the solemn declaration, that they acted conscientiously, and from no improper motives.

He is aware that great limitations of the Veto are necessary for the good of the Church.

But, then, be it remembered, that such limitations are wholly inconsistent with the principle declared by the Veto law of 1834, to be a fundamental law of the Church, and again reasserted by the Assembly of this year. That principle truly is a *right to reject* the person by the people, if not agreeable to *their will*. It has no reference to any opinion or inquiry or judgment of the Church Courts. On the contrary, it is the *will* of the people that must prevail; and the principle contended for is, a *right*, therefore, to reject—an *absolute and peremptory right*.

The instant that you attempt to limit this—the instant that you give the Presbytery a right to investigate into motives and reasons—to disallow votes—to judge of the propriety of the rejection, and of the sufficiency or fairness of the motives which have brought it about,—the instant any one such limitation is acknowledged to be proper, then the principle of the Veto law is abandoned. It must, in that case, be admitted, that the *will* of the congregation does *not* mean that, which is assumed in the whole argument as to the principle of non-intrusion. The *right to reject* is not adhered to if any limitations on the Veto are admitted, and the *other* principle of the duty and functions of Presbyteries to judge and to decide for themselves, is brought into play, and is acknowledged to be at once necessary and paramount in authority.

If, then, Dr. Chalmers admits the *necessity* and *competency* of the important restrictions or checks which he has *now* brought forward on the Veto, the measure so altered may be good or bad—but it is fundamentally different from the law passed in 1834, and ratified by Presbyteries—which asserts and gives to the people the power of a Veto as a *right to reject*,—in acknowledgment too, of an *irresponsible* and *absolute right*.

Now, surely we ought to know what the principle is, which is said to be one 'of the dearest principles of the Church.'

No two things can be so different, as, (1.) the right to reject under the actual Veto law, to which the Assembly adhere; and, (2.) a power to be exercised under the controul of inquiry, judgment, and decision by the Church Courts—under controul to the extent even of allowing a whole parish to be disfranchised, as having proved itself generally to be unfit to exercise the power. The '*will*' of the people, on the latter theory, assumes a totally different meaning. And the doctrine

as to the non-intrusion principle will become altogether different, according as you adopt the one view or the other.

Dr. Chalmers advocates apparently one view, or rather, I should say, practically admits it, in direct opposition to his argument, by acknowledging the necessity of restrictions on the Veto:—The Committee maintain the other view.

But each equally appeal to the 'fundamental principle of non-intrusion:—Although, in the latter view, the people have an absolute and unlimited and indefeasible right; in the former, there would be *really* no right at all, but only a privilege, which is to be subject to any limitations and restraints which the Church may from time to time judge expedient, and which, at all events, they do not mean to entrust to the people without great restraints.

Strange, that even now, in the mind of the author of the measure, the principle should not be fixed! Or, is it that Dr. Chalmers never intended to go beyond his own motion of 1833—that he saw the objections to the law as passed in 1834, and wishes to restrain, alter, and modify the latter, so as to make out of the two something different from either, but less fearful in consequences than the irresponsible power, acknowledged by the act of 1834, has proved in his conviction to be?

The instances of interference by the members of Presbytery, which appear in the course of the accounts given in the proceedings which have occurred in vacant parishes, are numerous. Many of them have been noticed in the country newspapers. In many cases the clergy of the Presbytery and of the neighbourhood have been mixed up with the proceedings in a way which was most unfortunate. Their interference is always wrong. Good they seldom will do. When they attempt to enforce moderation, their interference is repudiated as an undue encroachment on the rights of the people. The regulations of Assembly gave them encouragement to interfere to prevent unreasonable opposition to worthy presentees. If attempted, how is that treated?

In the case of the parish of Marnoch, (adverted to in another place), the parishioners complained, that when the Presbytery met to receive the dissents, the moderator of the Presbytery, from the pulpit, gave the people an address on the act of Assembly as to the Veto, which they described as laudatory of patrons and patronage, and adverse to any interference by the people. This may or may not be true, or may or may not have been proper, in the circumstances of the parish. The presumption is, that it was a very suitable admonition to the people.

But such interference is inevitable, from the nature of the case. It may prove insufficient to induce the people to receive and acquiesce in an appointment, of the propriety of which the Presbytery are thoroughly satisfied; but it will be all powerful to create and call into action opposition, easily enough created when the people are to enjoy an absolute and irresponsible power, of the exercise of which they are declared to be themselves the absolute judges.

The *strain* of such interference may be collected from the sermon, in the case of Trinity Gask, preached by a member of Presbytery during the vacancy, and immediately after the presentation was issued. The sermon was on 1 Peter ii. 16. After some introductory remarks, the preacher went on,—‘ It seemeth to me that, at this particular season, the subject in our text is suitable to your circumstances. It having pleased the Master of the vineyard to call away to his account your late pastor, you are now to be called upon to perform your duty in reference to the appointment and call of a new pastor. On the manner in which you discharge this duty, the salvation of your own souls, and of those of your children and children’s children, may be suspended; you are placed in new circumstances; you may have a difficult and painful duty to perform; many eyes will be upon you, and perhaps your conduct may be followed by the most important and extensive consequences. Let us, therefore, with humble and earnest supplications for the guidance of the Spirit and Word of God, attend to the directions in our text, which seem to be so very applicable to your present circumstances: “As free, and not using your liberty for a cloak of maliciousness, but as the servants of God.”’

‘ There are two things set before us in this verse very worthy of our attention, especially in the times in which our lot is cast: **LIBERTY, AND THE RIGHT USE OF IT.**’

Liberty was then divided into spiritual, civil, and religious liberty,—on each of which remarks were made. Religious liberty,—or ‘liberty in the Church’—was said not to be perfect in any Church.

‘ If, therefore, liberty be to be free from every hinderance to serving God, religious liberty is to be free from every church ordinance, as to doctrine, worship, discipline, and government, which is forbidden or not authorized by the Bible, and not to be hindered from serving God, and seeking his grace by every one of his instituted ordinances. So far as this freedom is not to be found in any church, so far it deprives its members of their rightful religious liberty. A Christian has a right to wait upon every ordinance of Christ in the manner he has prescribed; and he is not bound to subject himself to, or approve of, any ordinance not appointed by Christ; and he is bound to disapprove, and, in his place, testify against every thing in the visible Church contrary to the will of Christ. If any church professes and teaches error, it so far deprives its members of the liberty to hear the voice and truth of Christ; if it prescribes modes of worship not instituted, it deprives them of their liberty to worship God acceptably, and seek his grace in the way he hath promised to bestow it; *if it deprives them of the power of performing any duty or obeying any command, say the command* “beware of false teachers, which come unto you in sheep’s clothing, but inwardly they are ravening wolves; by their fruits ye shall know them;” *then so far it deprives them of their liberty to obey the will of Christ.* Only a church that is in all respects according to the will and appointment of Christ, affords to its members perfect religious liberty, and such a church never has existed yet.’

‘ We now advert,

‘ Second, To the *use* of liberty, having seen the nature of liberty and its three chief kinds. Our text having reminded believers that they are free, gives them three hints as to their use of liberty, “ using your liberty not for a cloak of maliciousness, but as the servants of God.”

‘ 1. Liberty is to be used. Liberty is an invaluable blessing; it comprehends all others. It puts man in a situation to attain the chief end of his being, which is, “ to glorify God, and to enjoy him for ever.” To procure and to proclaim liberty, Christ came, and suffered, and died. The preaching of his gospel is the sounding of the trumpet of the jubilee: “ Liberty to the captive, the opening of the prison doors to them that are bound.” Liberty is the blessing Christ promises to believers: “ Ye shall know the truth, and the truth shall make you free.” “ If the Son make you free, ye shall be free indeed,” &c. It was by the promise of liberty that false teachers allured their disciples: “ While they promise to you liberty, they themselves are the servants of corruption.” Liberty is the watchword of the patriot, the battle-cry of the soldier. For liberty the martyr has died. Liberty distinguishes the free man from the slave, the civilized from the barbarian, the saint from the infidel, the angel from the devil, heaven from hell. The devil enslaves; Christ makes free. Liberty, then, or freedom to serve God, is to be used, and never to be sold, or bartered, or betrayed, or lost. “ Stand fast, therefore, in the liberty wherewith Christ hath made you free,” said the Apostle to the Galatians, when certain persons sought to impose upon their church the repealed ordinances of the ceremonial law, “ and be not again entangled with the yoke of bondage,” Gal. v. 1.’ Then follow other remarks in the same strain.

‘ And believers are to use their religious liberty.’ Instances are then quoted, including the times of persecution in the Scotch Church.

‘ If *they* made such sacrifices to purchase for us the religious liberty we enjoy, in a Church which has Christ as the Supreme and only Head, and has such scriptural doctrine, worship, discipline, and government, will ye not, my brethren, “ contend earnestly” for the possession of these ordinances among yourselves and your children, administered in purity and power by a pastor after God’s heart, who may feed you with knowledge and understanding? If God in his providence has been pleased to add to your religious liberty, so that you are now able to obey the commandments, “ try the spirits whether they be of God,” 1 John iv. 1. “ Beware of false prophets,” Matt. vi. 15. “ Receive in the Lord such teachers as Epaphroditus with all gladness, and hold them in reputation,” Phil. ii. 29. “ I beseech you, brethren, ye know the house of Stephanas, that they have addicted themselves to the ministry of the saints, that ye submit yourselves unto such, and to every one that helpeth with us and laboureth,” 1 Cor. xvi. 15, 16. I say, if God has been pleased to add to your liberty, so that you can forbid that any man be made your pastor, who is not qualified according to the rule of the Word of God, then, brethren, *use this liberty*, and *use it boldly*, and use it without flinching to the right hand or to the left, for fear or for favour; for whosoever basely

‘ gives up his religious liberty, especially in so awfully important a point as this, is at heart a Judas, who would sell his soul and his Saviour for a piece of money, or for something that will perish in the using, and perish with himself for ever. Fear not the face of man. Let no man make merchandise of your souls. Let no man trample upon your liberty. “ Give place by subjection, no, not for an hour, that the truth of the gospel may abide among you ”

‘ But the apostle is taught by the Spirit to guard against the perversion of liberty, and the turning of the name of liberty into a covering and cloak, and pretence for maliciousness.’ Then various warnings are given against the abuse of civil or religious liberty.

‘ But, brethren, instead of dwelling upon the danger of making civil liberty a cloak for maliciousness, great and imminent as this danger is in our day, let us rather consider the sin and danger of turning religious liberty into a cloak and mask for the indulgence of unholy feelings. And to speak at once to the point :—Suppose that, according to the existing law, one was to be proposed as pastor for your acceptance or rejection, if you were to reject him from mortified pride, *because the proprietor did not hearken to your requests, or treated you haughtily*, this would certainly be using your liberty to reject the person proposed as a “ cloak for your own maliciousness,” &c.

‘ Brethren, bring no strange fire of maliciousness to mingle with the pure flame of zeal, for the honour of Christ, the good of souls, the peace of Zion, the prosperity of Christ’s gospel, cause, and kingdom, here and elsewhere.

‘ Touch not the ark of God with the unhallowed hands of passion and pride. Remember the death of Korah and Uzzah ! If, after comparing the life and doctrine of such persons as may be proposed for your pastor with the standard of God’s infallible Word, the great repository of all Church law, and putting up earnest prayers for the guidance of the Holy Spirit, you be persuaded that such a man is not qualified, according to the Bible, to watch for your souls, use your liberty to prevent his being placed as pastor of this parish, and spare not trouble or expense, and fear not persecution in so doing. But whoever proposes him, and in whatever spirit, if himself be a man of God, receive him as a gift of God, a pastor after his own heart, who shall feed you with knowledge and understanding. The law of honour, which is too often the law of Satan, would say, Be not trampled on by any man ; if he do not treat you well, defeat him if possible. But what says the law of God ? (See Rom. xii. 17—21.)

Again—‘ And, especially, your religious liberty, prize it, and use it, and seek to extend it as the servants of God. Remember that your only supreme and infallible rule and law, as members of the Church of Christ, is the Word of God. Follow this rule then. Be faithful servants to your Master in heaven. Leave consequences to him. Do ye your commanded duty. Value a preached Gospel as the highest earthly blessing. Count an unspiritual, and slothful, and faithless ministry as one of the worst curses you and your children can suffer. Use every appointed and legal mean of obtaining the Gospel and a

' faithful ministry. Take heed that every step you take in this affair
' be according to the word and will of God, for the glory of Christ, and
' under the guidance of his Spirit. Seek that Christ may be glorified,
' and his Church edified. Plead his promises. Jer. iii. 15, " I will
" give you pastors according to mine heart, which shall feed you with
" knowledge and understanding,"' &c.

The extracts from the above sermon, will show how easily the subject may be made the topic of most inflammatory discourses—tending to mislead and excite the minds of men. I do not say that this has often been done as *openly*, and with *as little dexterity to avoid reproach*, as in the above sermon. But individuals, in whose competency to judge of the objects of sermons I had perfect confidence, have frequently informed me of the strain of sermons, particularly in some districts of the country, which have been preached during vacancies. Various instances have from time to time been publicly stated of such on different occasions. The known opinions of the preacher as a vehement enemy of patronage, because unscriptural, and an encroachment on the rights of the people in the Church of Christ,—and his known opinions on the necessity of a call from the people,—his wishes and feelings on occasion of the vacancy,—these and many other circumstances make the people attach importance to every expression; and they are easily led to believe (for the flattery is too congenial to the mind) that their liberty in the Church should be manifested in showing, by the use of their liberty, that they appreciate it, and are worthy of it.

I would ask every one to attend to the conduct which has been frequently displayed by members of Presbytery during vacancies, both in the pulpit and by other interference, and to say whether he does not see symptoms of a great change taking place in the relative position of the Presbyteries to the people, in reference to the nomination of ministers,—and a great change in the feelings of individuals as to the propriety of interference.

As yet no doubt there has been a certain degree of restraint. The legality of the whole matter was disputed. But if the authority and power of the Church are to be recognised in the way proposed, and the Presbyteries to be entitled to say who is suitable and who not, an opening will be afforded for still greater and more general interference.

Experience already shows how soon people may be familiarized with an interference from which they had previously shrunk. Presbyteries have done *acts*, as Presbyteries, to aid individuals, from which they would have shrunk ten years ago. But when they are so mixed up with the whole matter as to take part in receiving the dissents, and have gone the length of breaking through the rule of the Church, by allowing probationers to preach in a competition out of lists, which is specially prohibited,—nay, when they have allowed probationers (though against rule) to preach during the vacancy, *in cases in which the patron intended to select*, the very object, or at least the probable effect of which, was to interest the parish in favour of others,—we may easily see how individuals of ardent minds, full of the evils of patronage, anxious to secure co-presbyters of the same views as themselves,—preachers

after their own standard,—preachers in whom they happen moreover to have an interest,—will be led to take a part in a way most prejudicial to the interests of parishes.

The interference of the neighbouring clergy is one of the effects of the present system which is most to be deprecated.

In estimating the injurious effects of such a system on the authority of the clergymen of the Church, it would be a great mistake to confine attention merely to the cases in which individuals have actually been *rejected*, in consequence of the numbers who expressed their dissent constituting a majority. Many cases have occurred in which, though the number has not been such as to exclude the individual, yet it has been ascertained that (from some cause or other—preference of another individual—dislike of the mode in which the presentee was recommended to the patron—or, perhaps, objection to the individual) there existed a numerous class who had wished to exclude him from the parish.

But as the number is short of the majority, no account whatever is taken under the Veto law of this expression of opinion which the Church itself has invited and courted—though it may be the opinion of the most important and intelligent persons in the parish. The Church has adopted, for the decision of such a matter, the *rule of numbers*. It makes a dissent of a majority, though but of one, conclusive to exclude. The dissent of a number short but by one of majority, is, in itself, of no avail, whatever may be the character and weight of that minority. The individual must, in that case, be taken on trials, and, if he is qualified, the mere dissent which has been expressed against his settlement is no longer to be taken into account.

But is that dissent of no moment or effect in *regard to the individual's usefulness*—his influence and character in the parish? Is it nothing that the Church should thus invite an expression of objection and dissent, which, though it may not be from numbers sufficient to reject, yet may make public the opinions of a large proportion of the parish who wished to keep the individual out? Is that an expedient, a wise, a prudent introduction to the settlement, (it may probably be), of many clergymen? The feelings which led to the expression of dissent, if the Church did not thus invite, nay provoke, its expression, might soon have died away, and yielded to the influence of faithful and anxious labours. But such a decided expression of opinion confirms the feelings, whatever they are, in which that expression of dissent originated. It establishes a sort of bar between the minister and those who have so expressed their opinions. Each party must feel the awkwardness of such a situation, to view it in no other light. It may often happen that the opposition did not originate in objections to the individual. That is most true. But then in all such cases the opposition was *unjust, unconscientious, and cruel*,—and the impression on both parties may not be the less powerful, or the impediments to future usefulness less, than on the one part

there is the consciousness of having committed, and on the other the sense of having suffered, injustice.

No one can doubt that every year the exercise of the right to dissent, whatever be the number of rejections, will become more and more frequent. The proportion, as well as the actual number of cases, in which the dissenters may not be a majority, may be great. But in many there will be left great heart-burnings, much dissatisfaction—the soreness arising from the excitement and controversy and heat which the advocacy of the claims of rival competitors will produce, or the still greater bitterness arising from opposing unsuccessfully the person actually settled,—all these elements of discord, in short, which are so apt to lead to dissension and divisions and schisms among congregations, or will greatly interfere for a long period with the usefulness of the clergyman.

I believe all experience in such ecclesiastical matters confirms the remark of Lord Moncreiff in his evidence before the Patronage Committee, that popular election would produce much secession from the Church, or at all events *much dissension* in parishes.

If the Veto shall be often exercised, though it may not end in rejection, it must infallibly more or less produce the very same results. Dissent publicly expressed against one individual, commits the parties openly in the face of the whole parish to an opinion against the usefulness of that person, much more decidedly than voting for another, when there is a choice by popular election out of several candidates. The vote, in that case, in favour of one does not necessarily imply any personal objection to another. It may not produce either awkwardness or soreness on either side. It does not commit necessarily the parishioners, by any personal declaration of opinion, against the individual who becomes their pastor. Nay, it may often happen that votes are given without much preference for one over another, or from previous engagements and promises, and the parties may be quite satisfied with the individual ultimately chosen.

But in the case of the Veto, the parties who come forward to declare publicly their dissent or Veto against the presentee, make then a public protest against *his* appointment. *They* cannot avow that they had no opinion on the subject, or no personal objection to him. They are thus most openly committed to a declaration that he cannot edify them—is not fit to be their pastor. That is the very meaning and principle of the Veto allowed to them; and the class may be, (as it frequently has been,) very numerous, though not sufficient to reject.

Can it be said, then, to be for the good of parishes—for the credit of the Church—for the usefulness, influence, and respectability of individual clergymen—for the peace of the Christian community, and for the interests of religion—that a system so perfectly novel in the Christian Church should be established, by which in a great number of instances a proportion,—it may be a large proportion,—of the parish may have an opportunity of publicly recording their individual conviction that the person, who is selected for their pastor, cannot edify them, and is not qualified to be their pastor?

The plan proposed is for the future and permanent government and economy of the Church. Look to all the elements of discord which abound in the present state of society in this country—to the intensity with which they break out upon all matters, however remote apparently the occasion, or the connexion with the events which excite the divisions—to the great antagonist principles at present contending with each other, for good or evil, for future weal or future woe to the country, on every subject of human thought,—and let any man say, if he can expect the result of such a system as the Veto, not to be, that in an immense proportion of cases, dissent, though not sufficient to reject, will be stated, aggravated by much previous heat, and leaving behind it a residue of bitterness, division, and discontent most injurious to the interests of religion and to the peace of the Church.

The instances have been numerous of dissents, though not sufficient to reject. In one case, out of a *very small* roll of communicants, twenty dissented. In some other cases there have been keen disputes and litigation in the Church courts, where the dissentients amounted to a majority, objections being stated to the propriety of including the votes of absentees who had left the parish, though not deleted from the roll, &c. ; and such litigations have gone on in some instances for more than a year, each disputed vote being keenly contested. In one case, the elders resigned, and no Session remained in the parish, owing to the divisions which prevailed. In another case, seventy-two dissented, the roll being barely double ;—in another, the dissentients were only four short of a majority ;—in another, fifty-nine out of two hundred and thirty dissented ;—in another, one hundred and thirty-eight dissented out of three hundred and fifty-four,—and fifty of the one hundred and thirty-eight had actually petitioned for the appointment of the individual. Many other cases have occurred, in which a large proportion of the parish have dissented, or expressed and evinced the greatest opposition to the appointment, although the numbers were short of a majority.

The evils of such opposition are increased by what occurs in many cases when the Veto is taken. Many are found to be on the roll who are not admitted to be proper heads of families, or have lost their proper character of communicants, and whose votes are objected to.

The details of the cases which have come up to the General Assembly on these points, exhibit a most painful picture of discord, bitterness, and litigation. The agent for the presentee objects to the individual giving his veto—the Presbytery must hear and decide—if the matter is near run, or if the keenness is great, (for the appeal *may* be taken, whether material to the result or not), the proceeding is carried to the Synod and then to the Assembly. One case was before the Assembly in two successive years, before the litigation in the Church courts as to disputed votes was terminated.

These litigations are most vexatious. If the contending parties are nearly equally balanced, they are prosecuted with the utmost keenness.

The uncertainty as to the facts is great—the contradictory evidence most extraordinary,—in the issue of these votes a new source of interest and excitement in the parish is created,—‘John Thomson’s vote has been disallowed—is not that shocking! What conduct on the part of Mr. B., the presentee. If we had known that, we would have given our dissent. We did not think he would have denied John’s privilege as a communicant.’ Or, ‘Only think, they have counted among those who are supposed to assent to Mr. B., James Henderson, when we all know he was not a proper communicant: he had never intended to join us again: he is away, or is going from the parish, and has no part or lot with us—and yet he is to be counted against us who have given our testimony against Mr. B. being able to edify us.’

The evils and extent of the litigation and disputes in the Church courts which have gone on respecting votes, have attracted so much attention, that I need not dwell more upon this point in the case.

But on the head of the unlucky presentee, who is obliged in self-defence to object to these votes, or whose friends do so for him, a degree of odium falls, which aggravates the evils of dissent, in the cases when the numbers may not be sufficient to lead to rejection.

Farther, the exercise of the Veto, whether it lead to rejection in the individual case or not, or whether we look to the competitions and canvassing which it will produce, will necessarily be most injurious to national character, and to the peace and quiet of the country, by introducing strife and discord and heat in the most exciting and bitter topic of division which the interests of life can afford.

Every one knows how much of strife, of contest, of animosity and disturbance to the peace of society, has prevailed in former times, from contentions in parishes respecting the settlement of ministers, when they were settled by popular election. I would wish any one who has doubts upon that subject, to study the valuable evidence of Lord Moncreiff before the Patronage Committee. No matter from what cause such discords may have arisen, the fact is undoubted. It has furnished a great theme for declamation in the arguments for the Veto. If the cases of disputed settlements in the first twenty or thirty years after the Act of Queen Anne was passed, which have been the fertile source of so much of that eloquence, are attentively examined, it will be found that the violence and discord arose far more from the strife and contention in the parish for *rival* candidates in cases of popular election, than from opposition to presentees, on account of objections personal to them.

What is now proposed to be done? The patron is to retain the right of selection; and in every case whatever throughout Scotland, in all future time, the people are to be *invited* to state their dissent publicly to the presentee.

Is that likely to lead to harmonious settlements and to peace in parishes, to promote the usefulness of the clergy, or to cement the bond which unites them to the people of the parish? If a large number dissent, (though not sufficient to reject), it is really difficult to say whether it

might not have been better that the individual had been rejected. Frequent settlements, after a large portion of the people have publicly attempted to exclude the individual by the Veto, is the most undesirable result which can be conceived, in the ordinary operation of the ecclesiastical arrangements of any country.

There are other circumstances, to which it is necessary to attend, of great practical importance.

On the grounds on which the Veto is demanded, I should wish to ask, Why, when the minister, after the best of all trials, viz. after he has been settled and has served the cure for some time, is found by the people not to preach the gospel—not to edify them—not to contribute to the nourishment of their souls,—they should not be entitled, in the exercise of their Christian liberty, to reject him, and to insist that he shall no longer be their pastor? They can prefer no charge, it is true, against him, of which a Church Court can take cognizance. What then? The people, after full experience of him, declare, that in his doctrine they can find no spiritual instruction—that they cannot be edified by him: they ~~plead~~ their own qualifications to judge on these points: they ~~plead~~ their privileges as members of the Church.

I should wish to ask, what is there to meet that demand on the principle of the Veto, *but the interests of the individual incumbents*; and what are these, on the views on which the Veto proceeds, that they should be put in competition for a moment with the reclamation of a whole people against a person by whose doctrine they declare they cannot be edified? But at all events the *law can be easily altered* on the point of interest in the benefice, *as to all future appointments*; nothing so easy. The people simply desire that a change in the law should be made, so that a life interest in future may not be pleaded against them; and I suspect that the only answer to such a demand, consistently with the views on which the Veto is advocated, would be the significant reply of one of the opponents of patronage to the Committee of the House of Commons, ‘*That would never do: That would be a radical measure indeed.*’ But the point is, what objection can be stated against the demand for such a change, consistently with the principles on which the Veto is conceded to the people?

We must give full effect to the views which are stated as to the ‘rights of the Christian people,’ or as to what is required for the ‘Christian good of the people,’ if the language used has any meaning. In all arrangements for the instruction of the people, and in attending to the sufficiency of the means for that purpose, and the parties who are entitled to decide on the qualifications and gifts of ministers, we must (it seems) consider the Church as composed of Ministers and People—the latter having a distinct standing and place in such matters. It is no answer to the latter to say, that the *former* find no fault in the minister whose duty it is to instruct them, but that they are ready to hear objections, and decide upon them. The answer is triumphant. ‘He cannot, and does not edify us. He does not preach the gospel to us, and we

‘ know that his doctrine is not sound. *Your opinion cannot alter the fact.*
 ‘ We are surely better judges of him now than when you acknowledged
 ‘ our right to judge, but gave us only one trial sermon of him. We
 ‘ have tried him for years ; and on the very ground on which the law was
 ‘ altered, in order to introduce and sanction the Veto, we require that
 ‘ the law shall be altered, for the more important object, that you, the
 ‘ ministers of the church, shall not plead your life interests against
 ‘ us, when we find, after *full trial*, that you are totally unable to edify
 ‘ us, or to do us any good whatever. The opinion of You, his co-presby-
 ‘ ters, may be in his favour. But you have admitted, that we are en-
 ‘ titled and qualified to reject, and that it is necessary for our good that
 ‘ we should have the right to reject, (whether you think the party quali-
 ‘ fied and fitted for us or not), on the ground that we must be satisfied
 ‘ that the individual is to edify us. And now that we have tried
 ‘ him, and had ample experience of him, is it any answer to us to say,
 ‘ that the ministers of the church find no adequate ground for a sentence
 ‘ of deposition, when we, the people, unanimously declare that we do not
 ‘ receive the least benefit from his ministrations ?’

This is no extreme result of the opinions contended for. It appears to me to be a much more natural inference from them than the right to reject on a single trial. If the reply is to be founded on other grounds—such as, the authority and jurisdiction of the Church—the importance of protecting the Church, and the people themselves, against their prejudices and capricious turns of feeling—their aversion to the truth—the right and duty and fitness of the Church to decide for them—the necessary independence which the ministers ought to possess over popular favour—then we are carried into views, all of which will apply as directly and forcibly against an irresponsible Veto on nomination. But if you admit the Veto on the grounds, and to the extent contended for, it does not follow that the people will acknowledge that their judgment, *after trial*, is not better than at first, and that they ought not to receive redress when the individual turns out, in *their* opinion, to be good for nothing. Nor will it be easy to make out a consistent argument against the right of a congregation to get rid of a minister whom they declare to be useless to them, after they are so much better able to judge, than when they were admitted to be quite qualified to decide upon that very point.

We are asked to alter the law, let it be remembered, in order to secure this *right to reject*. It is *as easy to alter it in one point as in another*. And most people, I suspect, will be of opinion, that if a right to reject should be given, it will be most useful as a means of getting rid of stupid, inefficient, indolent, and dull ministers, (no matter how chosen), whose continuance in the charge of the parish is an *unmitigated evil*. The clergy, as appears from the evidence upon the Patronage Committee in 1834, do not like this view of the subject. But I am persuaded that congregations, even where their minister has been chosen by popular election, may often think it a very expedient measure. And the more popular the mode of nomination, the fitter it is

that if the person does not edify and instruct the people, in the opinion of those who choose him, they should be entitled to reject him.

A very serious consideration connected with the Veto law, according to the theory on which it is founded, and which acquires additional importance from the way in which it works, is, that NO PERMANENT CONNECTION WITH THE PARISH is required in order to entitle a party on the roll of communicants to reject, or to concur in the selection which the power of rejection practically ensures.

An individual who has been twelve months in communion, (for that limitation is *now proposed*), if he has his family in the parish, though he may intend to remove, and may be under the necessity of removing, at the next term, has an equal right and interest in the matter with the landed proprietors—with the farmers possessing on long leases—with the manufacturers having large establishments—with the regular agricultural population, who may in *some* districts be considered as stationary, though now unhappily not in many.

All have the right who are heads of families. Artizans moving often from place to place, according to the variation in the rate of wages, or the encouragement in the district—*domestic servants* (even though under notice to quit), *whose families are in the parish*—occasional labourers in all branches of business—the workmen employed in building any great house or manufactory, if they have brought their families, as often happens, when engaged for a year—the lodgers who may be in the parish for perhaps only part of a year, if the vacancy then occurs—those who may be occasionally during one or two years, and actually at the time reside, for a part of a season, for health or sea-bathing, &c.—in short, all individuals on the roll of communicants who have families.*

And even of the stationary population equal weight is given to the

Various attempts have been made to endeavour to give the show of some connection with the parish. The last regulations propose *residence* in country parishes, but without any description of the length or character of that residence, and without any provision which ensures a continued interest in the parish. The proposed regulation, even if ultimately adopted in its present form, will leave this important question of residence open to be interpreted by each Presbytery, and each successive Assembly, according to their notions of what it is sufficient to require in each case.

It is a very remarkable fact, that while the Church professes to stand by an absolute right to reject, the *description of persons*, to whom that right is *supposed to belong*, is varied and altered in each statement of the law, and in the regulations of each year. Dr. Chalmers required, in his motion in 1833, the necessity of having been two years in communion. The Veto law of 1834 speaks of the *will of the people* and the *congregation*, but gives the power only to male heads of families

voice and opinion of all classes indiscriminately, on a matter on which it is in vain to say that no weight is due to education, experience of mankind, superior intelligence, and greater mental cultivation.

On this point there is great practical wisdom, and much manliness and faithful dealing with the interests of the people, in the simple but just remarks of Dr. M'Gill.

In the views which of late have been so openly advocated, and to which Dr. Chalmers has lent his sanction, it will be said that the lower orders are most interested in the question,—that they are best qualified to judge,—that there is more piety among ‘our home-bred peasantry,’—that if the minister satisfies *them* that is the object to be secured,—and as for the upper ranks,—‘they do not know us: they do not understand us.’

The result may indeed in time raise a barrier which will prevent them understanding their ministers, if the views and demands of the lower classes are exclusively or chiefly to prevail in their selection. And it will be a convenient standard of attainments for a Church to aim at, the nomination of whose ministers shall be monopolized, as Dr. M'Gill says, by the lower orders.

Dr. Chalmers dwells on his great desire to unite the proprietors and the lower orders cordially under the same Temple. It may be very true that a variety of causes lead many in the former class (though the proportion is grossly exaggerated) in early life to acquire a prepossession for the Episcopalian service. But at least hitherto it has never been pretended by any one that the clergy of the Church of Scotland, while most fully answering the purposes of a ministry for the very poorest classes, have not also been found, in talents, in attainments, in information, in qualifications for ministerial duty, equal to what the most cultivated minds require. Peculiarities in our condition as connected with England, may give many an early impression in favour of the Episcopalian service, and that is to be regretted: But it is of late treated with most undue severity, in the reprobation which it has met with from some of the leading advocates of these changes;—and I believe that there exist the kindest feelings on the part of such persons generally towards our clergy, and a very warm attachment to the Church of Scotland.

But none of any class ever pretended to find the clergy of the Church of Scotland not fully and completely qualified for their instruction and guidance.

being communicants. A Regulation in another year, by a most whimsical and arbitrary regulation, (intended to exclude illustrations of the danger of this power, which was said to be an indefeasible *right*), declared that none should be allowed to exercise the Veto who had petitioned for the presentee—a regulation which completely admits that there is no such *right* as that of the Veto, even in the estimation of the Church, and that the whole matter is in truth *new legislation*. Another regulation introduced twelve months communion; and another, the description of being resident in the parish!!

Indeed one beautiful feature in the Scotch Church, has been the perfect manner in which hitherto the clergy have been found to meet the wants and to suit the standard of all classes of society. Perhaps there has been no example in the previous history of the Christian Church, in which that combination has been seen more complete and perfect, than in the clergy of the Church of Scotland during the last 140 years.

It is proposed now to substitute for the system under which such a clergy has been secured, a mode of nomination which will necessarily, and in a short time universally,—it may really be said in all the parishes of Scotland,—practically lead to a choice influenced by, or intended to please, the *most numerous class*,—the lower orders of the community.

Dr. McGill has sufficiently touched on the objections to such a system, which are to be found in the diminution of interest which will follow on the part of the class who find their views, opinions, and estimate of pastoral qualifications so little consulted, and their wishes perhaps often purposely defeated.

But there are other evils to society which will follow not less directly.

In politics, the influence of property, of station, and education, except at moments of excitement, will generally operate greatly on the lower and middling classes of society. But in religious matters, and in the choice of a minister, the experience we have had in Scotland shews that, on the contrary, the latter classes will, in most instances, be found to take, purposely, and in the most marked manner, a different line and course from their superiors. The evidence of this is abundant. Independence of character is shewn by it in a matter in which they think that their superiors cannot reasonably expect them to yield. The desire to mark that independence influences many. It is thought right to shew in that way their equality in matters which belong to common interests. The choice or taste of their superiors, they are apt to think, will not in the long run suit them,—a very great, but a most natural mistake in such a case. And as it often will happen that the opinions and tastes of the two classes may differ widely as to the supposed defects or recommendations of preachers,—the lower classes may think they detect a manner which will make him indifferent to the humble duties of a parochial life,—they may imagine that cultivation and refinement imply unfitness for intercourse with them, and that if their superiors like him for these qualities, the risk is, that *they*, on the other hand, may have reason to be dissatisfied,—and they are apt to think that, in a style and manner more like their own, they may find a person of equal attainments, but better suited for them.

Opposition to their superiors in such selections and judgments, we do find in experience, very frequently occurs.

Then—in every parish, there will be found some of those characters so powerfully painted by Dr. Chalmers, who will take due advantage of all the probable causes of difference, and find occupation and delight in converting such difference into open opposition. Thus the seeds of discord in society are sown, on the subject, of all others, in which separations become the most marked and the most lasting.

There may be no intention originally on the part of the people to go against the patron or the heritors. But the discussion and the difference which will often ensue, whether the people get their choice, or are to judge of the presentee, between these classes, may produce a great and serious misunderstanding, which may tend, in a very unfortunate degree, if not to alienate them from each other, at least to a marked separation, which years will not remove, and which the next vacancy in the parish will widen and embitter.

When candidates are proposed for selection, and even when a presentee is offered for judgment, there will always be found some one looking to the situation, and making interest in the parish, who will address himself peculiarly to the taste and feelings and views of pastoral qualifications and preaching, of the class with whom the ultimate decision lies.

Dr. M'Gill said most prophetically that the people would *soon use* their power in order to ensure choice. They have done so. Dr. M'Gill said that the system would enable one class, the labouring class, as the most numerous, to *monopolize the selection and choice of ministers*. That has also been the result.

The details of the cases have shewn that in many instances the feelings of that class have been manifested in one way—the feelings of the farmers and the middle class of society generally in another way—and in many cases the gentry have kept aloof from a scene in which they knew that they would have no influence—in which their wishes would not be attended to, and in which occurrences were likely to take place in which they did not choose to mix.

What has been the result? Is the Veto popular? Most assuredly that cannot be affirmed. The Committee of Assembly are obliged to admit that even in *their* view it is not so. But is it popular in the districts in which its effects have been fully exhibited, or in which it has led to popular elections? To the advocates of popular elections, the Veto of course has attractions. To those whom Dr. Chalmers so eloquently describes as the village demagogues, who live in scenes of turbulence, it has peculiar charms. But with the great mass of intelligent and reflecting men, who look to its effects on the interests of religion, and on the welfare of the Church, the measure is any thing but popular. I believe the farmers and middling classes have discovered that it leaves them without any fair influence in so important a matter, and every case has proved that the matter, as Dr. M'Gill says, *has been monopolized by one class alone*.

Allow me to request your Lordship to look to the statements contained in the evidence of Lord Moncreiff, as to the misrepresentations which are made respecting the desire for popular election in Scotland, and as to the undue and unpopular attempts to excite agitation for that purpose. The exposure is complete, and the view given of the nature of any feeling which really exists in some quarters, is, I believe, perfectly accurate.

All the information I can collect as to the state of feeling in the country, is a general regret that the Church broke in upon the state

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weaknesses, errors, and general incapacity to decide on the qualifications of their spiritual instructors?

The manner in which individuals may be chosen, may more frequently create the necessity of such rejection.

But what is worse, the extent to which the interference of Presbyteries may be carried in regard to the nomination of ministers, the part which they may take, and the interest which they may exhibit in the success of particular candidates, will create distrust as to the purity of their decisions—will lead the people to doubt the integrity of the judicial character, when the individuals are so often seen arrayed in the heat and excitement which preceded the appointment—when their wishes and opinions as to individuals, or as to the choice of persons of particular views in Church affairs, are so well known. The individual rejected as unfit may often differ from them on these points—often on general politics. It is most important to preserve the authority of the decisions of the Church courts on so important and delicate a matter. But every view of the working of the Veto, and of its effects on Presbyteries and on the people, shews how fatally the respect for the Church Courts may be impaired in the opinion of the latter.

To any reflecting mind it must always appear that to the system of popular election it is a very grave and weighty objection, that it endangers the authority of the Church and the unity of its congregations, in the very cases in which the deference to that authority ought to be greatest, and in which it is under any circumstances most difficult to preserve the integrity and union of congregations, viz. cases in which the Church courts reject the favoured candidate, as not qualified. But the Veto is peculiarly exposed to this risk. For the Church thereby declare that the opinion of the people ought to decide on the point, whether the individual who is to be appointed can edify them or not. The people, by the operation of that principle, have decided upon that point,—they have got the person who is to edify and instruct them, and from whose ministrations they declare that they are to receive profit and instruction: And then the Church informs the people that their opinion and judgment is utterly erroneous,—that in the very doctrines which have pleased them, and from which they desire to receive consolation and instruction, there is error and heresy,—that the mode of preaching which they admired was unsound, vicious, and depraved,—and that the attainments and learning of the man of their choice were so miserable, that he was unworthy to be ordained as a minister of the Church.

Is that decision likely, in the course of time, to carry the weight which it ought to possess? Are the people likely to receive with submission and deference this return to their opinion and selection? Are they likely to acquiesce in this mortifying reply from the Church, which has taught them such a different estimate of their own qualifications for forming a decision on the point,—the most interesting to them in all the arrangements and decisions of life? Is there no risk of the deference due to the Church being weakened by the deference which the Church has paid to their WILL? Is there no probability that they will plead

of things before 1834, and much dissatisfaction with the whole working and operation of the Veto law.

There are some consequences which will result from the deference to the will of the people on which the scheme of the Veto proceeds, both on public opinion, and on the authority and influence of the Church, which may deeply affect the interests of religion.

Supposing the case to occur, which is not unlikely to happen, that the Presbytery are obliged to reject the individual whom the people may have specially approved of or chosen, either on the ground that his doctrines are not sound, or his mode of preaching unsuitable for the right discharge of pastoral duty, or that his attainments and qualifications are not such as are necessary for the ministry,—in short, to reject him on any of the grounds on which we have seen the Church courts often proceed. What *authority* comparatively can the judgment of the Presbytery now possess, after the Church has ascribed such importance to the will and judgment of the people, and has declared that they are entitled and thoroughly qualified to decide who are fitted to edify and instruct them, and who are not? I pass over the view stated by Mr. Candlish, both in the last Commission, and in his Tract which came out immediately before its day of meeting, as to the standing and duty of the people, for on that view the authority of the Church is utterly destroyed. But I take the principle on which the Veto proceeds, viz. that the people are, in the opinion of the Church, well qualified to say who can edify and instruct them,—and that it is a necessary element, in the provision for securing a successful and useful ministry, that their opinion on that point shall be decisive. Take along with this principle the inevitable effect of the measure to secure choice to the people:—and (if the views of Dr. Chalmers are to be regarded in considering the importance of the measure) add to that, the admission as to the *discernment and just perception of the truth* possessed by the congregations of the kingdom, to whom the power of rejection is to be entrusted;—And then what security remains that the rejection by the Presbytery of the favoured preacher—whom the people desire to have—whose doctrine they delight in—whose preaching they declare gives food and nourishment to their souls, and whose attainments and views of gospel truth they find to convey to them edification and instruction and comfort;—that the rejection of such a favourite, in the faithful dealing of the Presbytery with the people under their spiritual charge, is to carry the same authority with it, or give the same satisfaction, as in the system which has hitherto prevailed? Are the people as likely to remain in the position of humble and obedient and docile sons of the Church—as likely to acknowledge the wisdom and justness of its decisions, and the necessity of such superintendence and judgment in order to protect themselves against the risk of their own ignorance, false doctrine, wayward impressions,

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against the Church the necessity of attending to those feelings and perceptions of truth, to that discernment of the gospel, which the Church declares enables them so clearly and unerringly to decide whether they are to be profited or not by the ministrations of any particular individual.

Rejection, indeed, is an opinion expressed only against the individual presented. But, if that right is acknowledged on the principles stated by Dr. Chalmers,—still more on those advocated by the rest of his Committee,—if the people can say so unerringly who can edify them, as to make *their rejection* a proper and necessary thing in the event of that being their opinion,—and if the effect of this measure is *to obtain for them*, by the possession and exercise of the power so given them, *the privilege of choice*—is it to be supposed that the people will submit with deference to the unexpected and unwelcome decision—‘Your qualifications and views of truth fitted you *only to reject* the man you did not like, and who, you said, could not edify you. Your opinion and wishes are of no weight in passing or choosing the individual who *can* edify you. On that point we do not value your judgment—your views of the truth, or your estimate of the merits of any preacher.’

I think that it must be very obvious that, in many cases, the decision rejecting the person favoured or chosen by the people may create the greatest dissatisfaction,—sow the seeds of much discontent against the Established Church, and give rise to disunion and secession from the Church.

Smaller causes have produced these results in parishes.

Further, all these evils will be increased by the effects, which the change will certainly produce on national character. The measure will produce and engender *pride*, overweening conceit, injurious notions of the deference due to the opinions of numbers, and unbounded confidence on the part of the people in their own religious attainments and knowledge.

I am anxious not to be understood as expressing an opinion that such will be the result only on the lower orders. I have no doubt that the effect of the measure in these respects will be more injurious in its influence on *their* character, because it bestows the power on them, and unduly gives them the means of ‘monopolising’ the nomination of ministers, and also because the measure administers to them a flattery, by which *they* are most likely to be injured. But the measure will produce the same effects more or less on congregations of all classes. Spiritual pride will be created or increased in *all*; and a *most baneful tinge* given to national character.

Again, on what principle, consistently with the Veto, is the Establishment to maintain its ground in a parish, when the great majority of the people, holding themselves to be members of the Church—on the roll of communicants—*entertain peculiar views on religion*; in which

alone, they declare, they can be instructed to edification—in which alone they find nourishment for their souls? True, the Church tells them,—‘You misunderstand our doctrines—you pervert them to your views—your ignorance unfits you for understanding them—the task is above you. Your pride and presumption of mind, your proneness to error, your inability to think aught for yourselves without instruction and reformation, which you stand so much in need of, have misled you. You have not brought to the study of the Scriptures minds duly enlightened and subdued:—Your views are wholly erroneous, and you have no just discernment or just perception of the truth,—you do not see the truth, and you are unable as yet to understand the grounds on which the truth rests.’

To all such authoritative announcements, the people reply in the words of Dr. Chalmers—but in vain. On what footing can an Establishment rest after such an acknowledgment of the discernment of the truth by its hearers, and such an admission of their rights and standing in the Church? Are the ministers of Church Courts alone to decide for the parish what is the truth in that Confession to which they both appeal? Or will the people be easily brought to the conviction, that, after all, their opinions are to be held in no esteem, and that they have no other course left but secession, when they declare, on the invitation of the Church itself, the views which they have acquired as members of the Church? It is very plain that the effect of the measure we are considering, and of the views on which it proceeds is, in the case of such difference between the people and the Church, to endanger the principle of an Establishment, and to arm dissent and heresy on such occasions, as the differences between the Church and the people which the Veto and popular choice may produce, with weapons against the Establishment furnished by its own mistaken and injurious flattery to the weakness and pride of their hearers.

But let us consider the point in a further view. An Established Church maintains itself independently of the numbers who adhere to it, either in particular parishes or in particular districts of the empire, as in Ireland. Such anomalies will always exist in almost every country. We had large districts of Catholics in Scotland at the time of the Revolution. We set about converting them. We preached to them in their own language. We did not for a moment admit the modern doctrine, that it can be a duty of an Establishment and of the State, not to gain proselytes to the faith of the National Church. We did all that lay in the power of a zealous active clergy, and of Scriptural education *under the care of the National Church*, to gain proselytes, and to convert men from the errors and superstition of popery to the truth. And the result was successful, just because the effort was openly and publicly made in the performance of an acknowledged and paramount obligation on the Established Church.

When a Church is Established as the National Church it is no objection to it to say,—here is a great district in which the majority differ

from you : The answer is plain :—The object and purpose of our being established as a National Church is to *convert* them ; we are more required in that quarter than in any other. We exist, then, to bring them to the Church, and we doubt not of success. The people are ignorant or misled, unable to discern the gospel, have no just perception of the truth ; they listen to false doctrine, — they do not respond to the gospel : But still we persevere, and we expect and hope, in time, that we who know the truth will be enabled to communicate it to their minds.

Upon that principle an establishment depends, although in parts of the country the people who do not belong to it may be the most numerous class.

But the people reply in the words of Dr. Chalmers—‘ We have studied the Bible as well as you of the Establishment—we are men of like capacities and information with you : The instant discernment of the Gospel, the just perception of the truth, by men who cannot define their belief or expound their views, is not surely the privilege of one class of our fellow-subjects. We can say no more than that you do not preach the gospel to us—we find no nourishment to our souls in the food you offer us. We do not desire to be dissenters—we require an Establishment—we are ten times the number of those who differ from us. *We are surely as well entitled to judge for ourselves as to the doctrines which are to edify us as others are.* The question is as to the salvation of our souls : a question, in comparison with which all matters of established interests sink into utter insignificance. We cannot be edified with the doctrines of those ministers—our hearts reclaim against their doctrines.’

What answer can an Establishment make on the principles on which this Veto is advocated ? Will it do to say, ‘ We did not mean our language to be taken in this sense ? It is *our* people only who are to judge for themselves—they only are entitled to hold this language to the State and to the country. We speak merely of the qualities of those educated by us, not of human nature in general, when we have been declaiming on the necessity of allowing men to reject those by whom they cannot be edified, and whose doctrine they feel is not the doctrine of the Gospel.’

One of the main grounds of defence for an Establishment is destroyed, if the principle either of a Veto or of popular election is adopted by an Established Church.

The appeal to numbers—especially on the grounds on which that appeal is required by the advocates of the Veto—leads to results quite inconsistent with the authority and privileges of an Establishment.

The Committee appointed by the General Assembly, under Dr. Chalmers’s motion, made the following communication in a report read by Dr. Chalmers to the Commission of the General Assembly in the beginning of August.

‘ First, we can state our having received the assurance of the Government, that they were fully impressed with the importance

‘of the subject, and would give it their most serious consideration, and that they would give instructions to the Lord Advocate to prepare, along with the Procurator, a measure to be submitted to the Cabinet.’

‘And for those who might desiderate something more definite, and as they perhaps feel, more substantial than this, we have the satisfaction of announcing, if not yet a specific measure by the Legislature, at least a *specific and most important concession to the views of the Church on the part of the Government.* They have authorised us to state, that in the disposal of those livings which are at the nomination of the Crown, its patronage will most certainly be exercised in accordance with the EXISTING LAW of the CHURCH, a resolution which applies to nearly one-third of the parishes of Scotland. But we reckon on a good deal more than this.’

The first part of this statement, so far as it implied that the Government had directed the matter to be taken up as a Government measure by their law officer, with a view to prepare a bill, or that the Government had any intention, as a Government, to address themselves to the consideration of any specific measure, has, as your Lordship will recollect, received a most distinct contradiction from the answer of Lord Melbourne to a Question immediately afterwards put by Lord Brougham; and the purport of his Lordship’s answer was rendered still more clear by the assent given by Lord Melbourne to a subsequent observation by Lord Brougham that he drew from Lord Melbourne’s statement the distinct conclusion, that the Committee had wholly misconceived and misrepresented the purport of what passed with his Lordship. To that statement Lord Melbourne, as I am assured by those present, distinctly assented, and the result was by Lord Brougham declared to be perfectly satisfactory.

That result then I understand to be only this,—that the Government perceiving, on the statement of the Deputation, that the question was a very difficult one, attended with many important considerations, which required much deliberation, said, they would give the subject the proper attention, and that if the Procurator for the Church chose to try his hand in putting any proposition into the shape of a bill, the Lord Advocate would, in the first instance, consider their proposition in that shape.

I understand, on the other hand, that Lord Melbourne seemed to assent to the general accuracy of the Report of the Committee, in so far as it stated that he had expressed a desire to administer the Crown patronage in accordance with the Veto law. I do not understand that his Lordship confirmed the statement that he had authorised the Committee to make an announcement of any such expression to the people of Scotland—an announcement of itself leading to consequences which it could not be for the interest of the Government, independently of all other considerations, to produce. The contradiction which the Report of the Committee received upon one point, leaves a strong impression that they had laboured under an equally erroneous belief, when they supposed that Lord Melbourne authorised them to proclaim pub-

holy what had passed in their interview with him, or to convert this expression into a pledge that the *validity of the Veto was not in any event to be disputed.*

I am persuaded that the Nobleman at the Head of her Majesty's Government, whose sagacity and foresight none will dispute, had not been in possession of any accurate knowledge of the position of matters when he admitted any disposition to acknowledge the Veto, in the exercise of the patronage of the Crown. Lord Melbourne left the Home Office before the Veto came into operation.

I think his Lordship will be somewhat startled by the use made of this communication by the members of the Committee at the meeting of the Commission.

As might have been anticipated, great astonishment was felt by every one at this communication, and still more by the statement that the Government had *distinctly authorised the statement to be made to the Commission of the General Assembly.*

'Dr. Cook said, it had been distinctly laid down that the law of the land, as determined by the supreme judicatories, conferred certain rights upon patrons, and before those rights were done away it was requisite to remodel the law of the land. Yet the House had here a communication from her Majesty's Government, stating that they were determined to carry on their patronage in direct opposition to that law. (Some cries of No, no.) He was not thus to be put down. Was it not admitted that an Act of Parliament would be requisite to do what was contemplated in the report? Was it not admitted that as the law stood at present, if they proceeded in the way proposed, there would be a separation of the civil benefice from the spiritual cure? How could the Government do what they contemplated? Would they take the man whom they presented bound that he shall go in direct opposition to the law of the land? Was this conduct worthy of a Government? He could not certainly admit, that by any declaration, such as had been made, by any dispensing power—and his learned friend knew that there were times when the exercise of the dispensing power had led to results of no ordinary magnitude—he could not admit that by any such dispensing power the Government could set aside what had been by the highest judicatories declared to be the law of the land.'

'The *Procurator* (Mr. Bell) said, he could not but express his extreme surprise that his Rev. friend should assume that the Government would proceed in any particular way to carry their object into effect.—His Rev. friend surely had ingenuity enough to see how that object might be effected without exercising any dispensing power. The Report had not stated that the Government meant to exercise a dispensing power. He (the *Procurator*) was not there to say what course the Government would take; but he could state a way which would be equally effectual. He would just put it to the Commission whether there was not a mode by which the Government, and every other civil patron, might gain the end in view, without exercising the dispensing power? Sup-

'pose the Government *were to determine that they would issue no presentation whatsoever to any one who was not petitioned for by the majority of communicants in the vacant parish*; and suppose a person for whom the majority petitioned were presented, might the thing not be done without the dispensing power? *The Government might intend to follow this course; and if they did so there was no violation of the law.*

'Principal Macfarlan must observe that the conjecture of the learned Procurator *went the full length of popular election*, for which he was not aware that the members of this Church were as yet prepared.'

That Lord Melbourne contemplated the practical concession, and the complete abandonment of the whole patronage belonging to the Crown, thus explained by the Procurator as the course which *might*, which (he should have said) *must, be followed in order to fulfil the supposed promise ascribed to Lord Melbourne*, it will be difficult to believe.

But it is material to attend to the exact position of matters, and to the effect of any such rule as that which Lord Melbourne *seems to admit*, he had been willing to adopt.

The Church has refused to acknowledge the authority of the Courts of law.' It has asserted the validity of the Veto, and has refused to take on trials a presentee rejected by the people, although the Courts of law have decided the Veto law to be incompetent, and that the Presbytery is bound by statute to perform this duty.

The resolution of the Assembly is one directed *against the right of the Crown* as much as against other patrons.

In this situation of matters, is it within the bounds of sober belief, that the experienced and sagacious Nobleman at the Head of the Government of this country, who declared publicly in the House of Lords that the authority of its decision must be upheld, could have understood the true state of matters, when at the same time he *seemed to admit* that he had said to the Church Deputation in substance, that *their resolution to resist the law should be submitted to so far as the Crown is concerned*, and that the Crown, in possession of nearly one-third of the patronages in Scotland, will acquiesce in this extraordinary assumption of power, by which, in direct defiance of the judgment of the House of Lords, the Assembly have resolved to deny effect to the rights of the Crown, or of any other patron?

If the concession of the Veto is thought to be a proper and expedient measure, or if it is to be adopted for the sake of popularity, the plain course to take is *to alter the law*.

That Lord Melbourne, as the adviser and protector of the rights of the Crown, and bound to uphold, as he declared was his intention, the authority of the decision of the House of Lords, could be aware of what it was that he was asked to do, when requested to administer the Crown patronage according to the Veto law, and in *submission* to the resolution of the General Assembly, is to suppose that he would deliberately adopt a course marked with the greatest inconsist-

ency. That I do not believe. But I may be permitted to doubt if his Lordship had been accurately informed of the state of matters to which his concession applied.

Another consideration, which must satisfy every one that He had not been fully aware of the nature of these questions, is, that it is not possible to suppose that he could, in the full knowledge of the case, have made a concession which will operate so injuriously on the *rights both of all other patrons*, and of the individuals presented by *them*,—whose legal rights the judgment of the House of Lords protects. It is needless to point out what use will be made of this practical admission of the Veto, if really acted upon by the Queen's Government, in order to concuss *private patrons* into the same 'abandonment of patronage';—what encouragement will be given to the people, by the authority and sanction of the Government as it were, to use the *power* they have for the purpose of *wresting the right* out of the hands of those to whom by law it belongs, against the Admonition in the Pastoral Letter by the Assembly of 1835 respecting the objects of the Veto law. Neither need I point out the certainty that this public admission on the part of the Government, (if not, as I am confident it will be, retracted as an error—retracted with the approbation of all the intelligent classes of the community), will lead to the *immediate and general exercise of this power throughout all the parishes* in Scotland, so as to put an end to patronage, and to establish popular election.

The Committee saw clearly what was to be gained by the immediate and premature promulgation of this, I fear, inadvertent expression of Lord Melbourne's wishes, and they significantly added that they did not doubt that private patrons would not be found holding out in support of their rights, from *less 'deferential respect for the laws of the ' Church of Scotland.'*

Did Lord Melbourne anticipate this injury to the rights of others, or that this use was to be made of what passed?

I am persuaded he did not, for no one will readily believe *him* to be disposed to commit *deliberate injustice* to others.

What is the nature of the statement on the part of the Government, which the Committee wish to convert into a sort of public Government pledge, by giving to it this publicity?

Can the Government bind the presentees who may be rejected, not to assert their legal right under the presentation granted to them? That would be a preposterous supposition:—And the attempt would be unavailing, for such a stipulation would be an illegal condition, and could not be enforced. The presentee could not be prevented from trying his rights. The Crown, when it issues a presentation, has given the right to the benefice for his life to the presentee, if duly qualified, and cannot by any subsequent presentation, interfere with or recall that grant. The presentee is independent of the patron from the moment the presentation is granted; and the decision of the House of Lords has settled that the people cannot put a Veto on that nomination. The individual is en-

titled to be taken on trials, in order that his qualifications may be ascertained.

But, says the legal adviser of the Church, the Government may do what they promise in this way ; *they may resolve to appoint no one who is not petitioned for by a majority of communicants.*

I have some curiosity to know if it was explained to Lord Melbourne, that *this was the only way in which he had any means of effecting* what perhaps he supposed to be a very harmless procedure. He may have said—‘ I have no objection,—none, that the Crown’s presentations should be in accordance with what you tell me are the laws of ‘ the Church.’

But was he made to understand that the presentee in such case, although he might be vetoed, would yet have a legal right under the presentation, of which he cannot be deprived, and will be *entitled to obtain*, as a matter of course, the *very same judgment which has been pronounced in the Auchterarder case?* Was Lord Melbourne made to understand this ?

Again, was Lord Melbourne made aware that even in the opinion of the law adviser of the Church, the statement of his disposition to give effect to the law, as it is called, of the Church, *necessarily implied, that in every case the Crown was to hand over the patronage to the people*, and to appoint the person whom the majority apply for, whether the Government believe that individual to be a fit and qualified person or not ? In one case lately, a patron left the choice to the people. They applied (with great unanimity, I understand) for an individual whom the Presbytery rejected as not qualified. Is the Crown to take no responsibility—to make no inquiries—to leave the patronage, in short, to the people—and to issue the presentation *in obedience to the demand of the people*, and tied down by a pledge to do so ? for if *this proceeding is necessary* in order to do what Lord Melbourne declared his willingness to do, then the nomination must be given to the people in all cases—else the result will be, that the Government will be accused of breaking their promise, and their presentees will in that case be unquestionably rejected.

Did my Lord Melbourne understand, then, what it is that the Crown is expected to do ;—nay, what is the only course, in the expectation and belief of the Church, in which his declaration can be acted upon, and this supposed promise fulfilled ?

I doubt this much. I cannot as yet believe that his Lordship did understand what it was, to which he was understood to agree, and which he is expected to do : I cannot as yet believe that Lord Melbourne understands that he can be expected to confirm any such view of the matter, or is committed to any engagement or assurance to this Deputation of the kind they ascribe to him.

I venture also to doubt whether his Lordship, when he expressed some such disposition to this Deputation, intended or imagined that *immedi-*

atâ publicity to the whole people of Scotland should be given to this expression of his individual wish on the subject, and that it should be proclaimed at the cross of Edinburgh, and hawked through the streets as a piece of news, that her Majesty's Government meant to allow the people in one-third of the parishes of Scotland to veto presentees, or, in other words, to choose their own ministers, for that is the only construction that any one can put on the subject to whom the facts are known.

It was one thing to give some general assurance to a Committee, in whose discretion and management of the question, during the very time when the Government was anxious to consider what should be done, Lord Melbourne thought he could confide.

But it was a very different matter that the Committee should (when perfectly unnecessary for the object of their appointment, and when it is no part of their duty to report to the *Commission of the Assembly*) proceed with breathless haste, in a way both uncalled for and unusual, to proclaim that Lord Melbourne had agreed to acknowledge the Veto in *all cases*,—and that when they were asked how?—the only answer that could be given by the legal adviser of the Church (present at the interview, I understand) is,—‘Suppose the Crown shall resolve not to appoint ‘any one except such as are petitioned for by the majority of the communicants.’

Was this use contemplated or sanctioned by Lord Melbourne of what passed in London? Did he *authorize* the Committee to promulgate this to the people of Scotland? Or, was this an attempt to commit the Government, in a way and to an extent very convenient for those who intend by the Veto to obtain the practical ‘abandonment of patronage ‘in all cases,’ (to use the expression of one of the leading members of the Committee), but which could not have been contemplated by the Government

The Government might have wished to try the matter, in order to see how it worked, and might have expressed their willingness to do so to the Committee. But still the restraint imposed by the decision of the House of Lords remained. It could not be known whether the Crown might not dispute the Veto. The people, therefore, would have been under some controul: license would not have been too suddenly given;—the reins would not have been thrown down at once; and during the period necessary for deliberation, nothing final or mischievous would have occurred.

But this cautious and prudent course would not have satisfied the objects of the Committee. They plainly *wished to commit the Government*. They wished, by the promulgation of what passed, to make it more difficult for this Government or any other to exercise the prerogative of the Crown. They wished to gain practically the abolition of patronage, ‘in all parishes,’ by an open announcement of this expression of the intention of the Government,—an announcement which could only have been made with the view to increase agitation on the subject, and to encourage the people in all parishes, whether the patronage was in the hands of the Crown or of private patrons, to exert the power so as to en-

force the right of nomination, and to concuss both the Crown and private patrons into that result universally.

I suspect that Lord Melbourne has been very ill-used in the whole of this affair.

Let me solicit the attention of your Lordship to this supposed expression of an intention to admit of the Veto in all cases of Crown patronage,—in other words, by agreeing not to dispute the power to reject, to give the people the means of enforcing popular election.

If this promise is made on the part of the Crown to the people of Scotland, can the same privilege be denied to the people of England, or long withheld from them?

There is no point involved in this supposed promise as to altering the law : It is said to be a promise that the Crown is to appoint only the persons whom the people choose and desire to have. That surely is a promise just as easily fulfilled in England, without any alteration of the law, as in Scotland.

The Crown patronage in Scotland is a matter of very great importance for the good of the Church. We have no other prizes in the Church, on our Presbyterian system, than the parish livings.

For the encouragement of learning—for bringing forward men of talent, attainments, and high character, the Crown patronage has hitherto been of great use. It is a right which forms a graceful and a valuable part of the prerogative of the Crown, in regard to an Established Church,—the exercise of which is well fitted to be of the highest advantage to the interests of learning and the good of the Church.

I do not say that it has always been as systematically and as well directed to these great objects, as it might have been,—Chiefly from the great misfortune under which Scotland has laboured for a century, of not having a separate Secretary of State, with parliamentary weight and experience, and looking to the manner in which Scotch affairs might be conducted for his own credit and character in public life.

But still great good was done by the way in which the Crown patronage was for the most part bestowed. Great pains were taken to select persons of merit,—and I would wish Lord Melbourne to turn to the evidence before the Patronage Committee, in order to see what credit Sir Robert Peel received from *persons the most opposed to him*, for the enlightened and anxious desire which was shewn by him during many years he was at the Home Office, to bring forward men of eminence, talent, and learning, and the satisfaction he was able to give to the Church, not only without yielding one point as to the right of patronage, but rather by acting in many cases more firmly on the principle of direct selection by the crown, than had been previously done.

The Crown patronage gave the opportunity also of placing in the best and most important livings men who had in smaller charges shewn their talents for the pastoral office, and acquired distinction for learning

by their publications or sermons, or the reputation of their general attainments.

Testimony is borne to the way in which the patronage was exercised during the period I refer to, from all quarters, in the evidence before the Patronage Committee. The instances that might be mentioned would illustrate the importance of the principles, on which the Crown patronage was then administered, even in a more striking manner.

The Crown patronage was eminently useful in the way I have mentioned. It was, indeed, I may say, *the* means by which learning could be encouraged in the Scotch Church,—merit and high attainments brought forward—eminent characters in remote situations and poor livings rewarded—and the interests of religion consulted by systematic encouragement to the attainments by which alone a learned body of clergy can be maintained.

Is this, then, to be wholly thrown away and abandoned by the Crown? Is it really come to such a pass as the report of the Committee leads us to fear? Are the whole Crown livings in Scotland to be surrendered to popular election? Is it the fact that the Crown is not to retain (even though the law shall not be altered) the power to make one single appointment?—not to promote a single individual, or to have the means of bringing forward a single person of talent and eminence?

I need not dwell on so obvious an objection to the system of popular election, or to any system ending practically in that result,—that it will destroy the learning of the clergy as a body, and substitute other attainments as the object of pursuit, and the qualifications for *getting into a living*. But is it to be supposed that the advisers of the Crown can intend to act avowedly on a plan by which so important a provision for encouraging learning shall be wholly thrown away?

In common with a great proportion both of those who are friendly to the Government, and of those who, like myself, are conscientiously opposed to it, I do entertain the firm belief that the case stated to Lord Melbourne had not been fully understood by his Lordship,—that he neither was apprised of the difficulties of doing what was asked of him,—of the nature and peremptory character of this Veto,—of the necessity of *giving in to popular election, as the only way in which what was asked could be in fact allowed*,—nor that he sanctioned this proclamation to the people of Scotland, by which the expression of an intention, which the Government might wish as a matter of experiment to act on, was to be converted into a public acknowledgment that the *Veto would not, in any case, be disputed, and that the people were in all cases to have their free choice*.

The Committee saw, I presume, that, by the promulgation of this conversational discussion, another great object would be gained by its leading members,—by those who have taken up the advocacy of the Veto, since it has been found to attain *their* object more generally and effectually than they had supposed by the practical abolition of patronage. They know well that even if the Veto should be sanctioned, the

Crown will be for ever committed to popular election, and that if the Government once acts upon this public pledge (for so it will be viewed, if the Government shall sanction what has passed), it will be of little consequence whether a statute to legalise the Veto is passed or not,—for after it is passed, what has taken place in the interval will tie the Government down to leaving the choice to the people, or if they attempt to draw back, will sufficiently prepare the people to exert the power, which the Church has given, in order to attain, as they best may, the same end.

The introduction of popular election, or the sanction of any measure which practically compels resort to such a mode of nomination, of the whole ministers of the Church of Scotland, *is a fearful experiment.*

I am confident that none will look to it with more apprehension than Lord Melbourne.

Since the previous part of this Letter was printed, my attention has been called to a very zealous and able defence of ‘the Present Position of the Church of Scotland,’ by a ‘Lay Member of the Church.’ Every principle already commented upon, as to the authority and jurisdiction of the Church, and as to the doctrine of non-intrusion, is very fully and anxiously upheld in the pamphlet I refer to. But after a most anxious defence of the proceedings of the Church, the author of this pamphlet, (whose personal character gives to his admissions on this point great authority and weight), ends with this important and most conclusive acknowledgment of the imperfections of the Veto law, and of the dissatisfaction with which it is regarded by its supporters.

‘Doubts, as formerly stated, have certainly prevailed *from the very first, and still exist in the minds of many*, as to the expediency of giving *necessary* effect to an *absolute veto*—some considering it would have been better to have revived, to some definite extent, the ancient usage of the Church, which required a positive *assent* on the part of the congregation,—while *others* conceived that the most advisable method was to employ the *veto*, but to *guard against its abuse* by placing *it under the authoritative control* of the Presbytery. This last, so far as I can ascertain, is *the prevailing opinion in the Church at the present day*. *Dissent*, or *Veto*, as it is called, was preferred to *assent*, as the mode of ascertaining the sense of the congregation, solely on the ground that it was much more favourable to the presentee; inasmuch as the risk of a large proportion of the people coming forward to express a solemn dissent was much less than the risk of the presentee failing to procure the positive assents of such definite proportion of the people as might have been required of him; the obvious result of adopting the method by *Veto* being, that the presentee has the benefit of all being held to assent who do not positively come forward to dissent. This may be held a sufficient reason for adhering to the *form* of *Veto*; but as, *undoubtedly*, instances may occur where *violent opposition* may be *stirred up* against a presentee upon *groundless prejudices*, or from *motives positively unworthy*, it seems reasonable that a

'check against such abuses should be provided, by calling in the control of the Presbytery.'

We thus find that the ablest advocate of the Church acknowledges that distrust of this measure has always been entertained among its supporters—that *in the form in which the Church chose to pass it, and in which they now enforce it, it really cannot be defended, and that in order to guard against the abuses which it at present permits, and to exclude violent opposition from groundless prejudices or unworthy motives, the measure which the Church has passed and is enforcing, in defiance of the judgment of the House of Lords, must receive material changes, which will give to it a totally different character in point of principle.*

Surely, *after the advocates of the measure were agreed what was the principle on which it should be framed, and what the measure was finally to be,—then would have been the time when (if ever) it was fitting to place the Church in 'its present position.'*

These variances in the views and proposals of all the leading advocates of the proceedings of the Church, sufficiently demonstrate, that in truth they are all maintaining their *respective speculations on matters of expediency*, and are not proceeding on any precedent, rule, law, or practice of the Church.

The Committee declare that the Veto has never given satisfaction to the Church, and that the change should have gone further, and required a 'positive call' by the people. This 'Lay Member of the Church,' whose opinions represent, I have no doubt faithfully, the opinions of that (small) portion of the laity who support the 'present position' of the Church, admits that great difference of opinion has prevailed from the first as to the particular measure which should be adopted, and of the wisdom of this measure among its supporters—(each sect, in truth, viewing the whole matter as a *change* which the Assembly, in a *legislative capacity*, were to introduce, not as the enforcement of any positive rule, or right, on the subject)—and *he declares that the prevailing opinion is, that the people have got too much power, and that it should be placed under the control of the Presbytery, in order to check gross abuses.*

Yet the singular thing is, that all run out into a crusade against the courts of law, and as to the power and independence of the Church, in support of a measure, which neither Dr. Chalmers nor the Committee, nor their ablest defender, pretend to justify or maintain in its present shape.

Then, again, I ask, until the measure is adjusted among its defenders, and the Church is agreed upon the rule to be adopted, was it not rather precipitate and extraordinary to proceed to extremities against the law, and to hurry the Church into such a false 'position'?

One party says,—The Church has taken her stand nobly for the Veto, and we call on the Legislature to acknowledge the propriety of what we have done, and to sanction our resistance to the law. True—the Church has never been satisfied with the Veto—from the first this was

not the measure which should have been adopted, or is reconcilable to principle—the people should have been placed in a less invidious situation, and ought to have got *more* power: and we *reserve the means of bestowing that*, by *some further change*.

Another—the author of the measure—says,—We take our stand *here*—we abide by the law we passed, in defiance of the judgment of the Court—and three weeks afterwards, he proposes to alter the whole principle of the law.

The most respectable defender of the ‘position’ of the Church ends by acknowledging that the principle of the measure is vicious, in giving the people too much power, and that the Presbytery must have controul.

Yet none of these parties seem to see that they are differing on the most fundamental principles which can enter into the whole question.

If the General Assembly has unlimited power of legislation, it is very well to discuss all these differences. But at present the stand taken is on the ground of the law and principle of the Church being fixed, and yet all differ fundamentally as to what the principle is.

Either there is a *right* on the part of the people to reject, or there is not. If there is, the argument of Mr. Cunninghame and Mr. Candlish is complete, that on that *right* to reject there can be no controul; for if it is to be exercised only in the way in which others think reasonable, it is not a *right to reject*. The present rule, which the Church has resolved to enforce, takes that view of the case. If there is no *right to reject*, then to be sure you may introduce any restrictions and restraints you choose on a privilege, which in that case you may wholly withhold, or grant in the exercise of legislative power to such extent as you choose. But in the latter view of the matter, there is no defence for ‘the present position’ of the Church,—for the only question then is, what should in point of expediency be done—not what is the fixed law of the Church, which at all hazards is to be maintained, but what should its polity be—and then the question is at an end; for no one can pretend that the Church has absolute legislative power. In the latter view of the case there is no longer even the shew of plausibility in the dogma of non-intrusion against the ‘*will*’ of the people;—for, if you are to subject that ‘*will*’ to any restrictions you deem expedient, you at once admit that the term ‘*will*’ does not mean the pleasure and resolution of the people,—does not import a right to reject, but only that they are to be allowed to object,—the Presbytery *judging of the propriety of such opposition*.

Now, there cannot be two things more widely different. Parties argue in support of the actual Veto law, which declares and enforces the *right* to reject, and then end with admitting the necessity of restrictions, which put an end to the notion of any such right;—And yet it seems never to be thought that there is any distinction in principle, or as to the ‘present position’ of the Church, in these two matters.

The author of this pamphlet thinks, I see, that the Church is not pledged to the Veto, as passed in 1834, by its resolution in 1839. The

'Statement' of the Committee fully demonstrates that this is the only measure proposed ; and he will see that the ground taken, of the 'right of the Christian people,' leads the active members of the Committee to scout the notion of the exercise of the right being under the controul of the Church.

I see the author further thinks that the risk of the rejection of a faithful preacher—perhaps because he was too good for the people—is, at present even, completely avoided ; because 'the first duty of the Presbytery in such circumstances, would necessarily be to support the hands of the patron, and to *put down the unworthy and scandalous opposition.*'

This is a striking proof of the misconception which prevails in quarters where it might be least expected, as to the nature and character of the Veto. The Presbytery unhappily, have no power but to register the Veto. I shall be glad indeed to find that the opinions of such laymen as the author of this pamphlet, may at last open the eyes of the clergy to the infatuation of abandoning their proper province and duty, and may lead them to discover that their Hearers do not desire to see the Church despoiled of the controul and jurisdiction which they may be assured the hearers of the Word can never wish to deny to them.

There are some short considerations of which I would wish, in conclusion, to remind your Lordship.

The *first* is—That when Parliament did, two centuries ago, abolish patronage, and left to the Church to regulate the nomination of ministers, even the Church assigned the people only the right of *objecting on cause shown*, to the persons who might be proposed to them, the Church retaining the power and the duty of judging of the validity of these objections.

In the present day, the Church of Scotland has begun by surrendering that province,—has proclaimed the right to reject to be absolute,—for the exercise of which no reason need be stated, and the abuse of which the Church is not *entitled* to take cognizance of or to redress. And then it asks Parliament to sanction a measure which, along with the surrender of that duty in the event of rejection, leads necessarily to choice by the people. The Church proposes that the people shall be entitled to reject, without even stating a reason, the person whom even the Presbytery perhaps may specially select for the parish. In what period of the history of the Scotch Church,—in what period of the Christian Church, has this right on the part of the people been acknowledged by the Church ?

The *second* is—That the measure which the Government is asked to recognise in practice, and to sanction by legislation, has, beyond all question, *operated in the very way which its proposers deprecated*, and the occurrence of which they declared to be so improbable as to be be-

yond serious calculation. I entreat your Lordship to look to the evidence of Lord Moncreiff, in order to contrast his expectations of the working of the measure with the actual effects which it has produced, and with the results boasted of by the extreme party who have now taken up the question.

The *third* is—That the *author* of the measure,—certainly its most splendid advocate,—who has brought about the present state of things by his hasty motion in the last Assembly,—proposed originally by his motion of 1833, as a necessary and important check, that the Presbyteries should retain full jurisdiction, on proof either of malicious combination, or that the opposition was not truly founded on *objections personal to the presentee*, in regard to *ministerial gifts and qualifications*, to disregard it, and to settle him under the presentation,—and that, in his *Note* to the published Report of his Speech in last Assembly, he now admits that the Veto ought to be placed under most extensive, sweeping, and important restraints,—restraints inconsistent with the notion of a *right* on the part of the people to reject, for which they are not accountable to the Church.

These most significant and emphatic acknowledgments at once of the absurdity and danger of the principle which the Church has adopted, and of the practical evils of the Veto, your Lordship and your colleagues are expected to disregard; and the Committee, (in which Dr. Chalmers seems to stand alone in his views,) desire the right to reject to be acknowledged in the most absolute form, without any controul whatever on the part of the Church, and without the possibility of checking *any* abuse in *any* case at *any* time, or of correcting the mischiefs of popular error, excitement, injustice, and delusion, however gross. They require the Veto in that form to be sanctioned, as the very ‘least’ measure which in principle they will accept.

The *fourth* is—That the Committee have acknowledged—and the author of the measure himself concurs, as a member of the Committee, in the public confession—that the measure has not given satisfaction to a great portion of the Church who at present support it—that it is not conformable in *principle* to *their* views of the constitution of the Church,—that the people ought to be placed in a different and less invidious situation;—and that the Veto is now pressed by the leading members of the Committee who desire the total abolition of patronage, from its notorious effects in leading to that result. The change, then, which your Lordship and the Government are desired to introduce is *not intended to be final*.

The *fifth* is—That the Committee also require, in order to enable the Church to act on any views which at any time they choose to adopt as to the nomination of ministers, the recognition of a *power on the part of the Church*, which supersedes all right of nomination, and tends to concentrate the whole influence and direction in the settlement of ministers

in the hands of Presbyteries, in an irresponsible, undefined, and arbitrary form, free from the restraint of judicial reasons and judicial process.

No one more lamented,—as his reported Speeches in the Assembly in 1832 and in 1833, and his evidence before the Patronage Committee, sufficiently demonstrate,—the revival of these questions respecting the appointment of ministers, than Lord Moncreiff; and before leaving this subject, let me request the serious attention of your Lordship to the view he gave of the state of the Scotch Church, upon which it was proposed in 1834, to break in by a change which he fondly hoped was to work in so mitigated a form, but which, it now appears, will perpetuate all the evils which he deprecated. ‘After these observations, I proceed to answer to the particular question now put. Is there any practical evil at this moment existing, sufficient to call for this very hazardous measure,’ (choice by the people in any form, or to any extent), ‘as I think it? Is there anything to induce Parliament to yield to what I think the inconsiderate demands of a portion of the clergy, and of the people of Scotland, to the effect of destroying, or if not actually destroying, of endangering this establishment, which, in my opinion, has peacefully worked, and is working for the benefit of the country; and from which, I think, that such incalculable benefits have accrued to Scotland and to the empire. We know, and those who are well acquainted with Scotland, cannot shut their eyes to the fact, that benefits derived from the Established Church are of immense magnitude, in education, in the general diffusion of knowledge throughout the land, in Christian knowledge, and in Christian morality, spread among all ranks of the people, and in the general quietness, decency, and order of our population throughout Scotland. Now, I think that *this proposal is at present made at a time when, in my opinion, the Church, so far from being in a decaying or falling state, is in a most flourishing condition, in an improving state, when the pains which are bestowed by the teachers, and by the young men under education for the Church are perhaps greater than they were at any period, if it was not just at the time when the excitement of the Reformation of course produced very great exertions by the persons who came forward into the Reformed Church. And I must be permitted to observe, (I think it is a proper place to make the observation, which is deeply impressed upon my own mind) that the true, or at least one principal cause of the agitation at present going on for destroying the Establishment—the true or a principal cause of the agitation by that newly constituted class of persons. I mean newly constituted in name, who call themselves Voluntary churchmen, is to be found in the clear perception, that the Church is rapidly improving, and that evils which were formerly of a serious magnitude, were, and are greatly lessened, and continuing progressively to be diminished.*’

The prevailing disposition in the present day, when agitation is excit-

ed upon any subject, is to suppose that some concession ~~must be made—~~ *that something or other must be done to tide over the difficulty for the time.*

But upon this question we have the advantage and the warning of two different considerations, which have not occurred in regard to many other questions in which concessions have been made from this feeling.

In the *first* place, we have had a trial of the Veto in the concession made by the *Church*, and we have seen to what purposes it has been practically turned, and to what demands it has led,—that all the expectations of its framers have been disappointed, even under the great restraints of a general conviction of its illegality. And before adopting the measure, let us both take warning by what has happened, and attend to the memorable lesson read to us even in the course of the first year, by the fact of its Projectors being obliged to put forth a remonstrance and expostulation at once to Presbyteries and to the people, against the abuse of the power so precipitately entrusted to them both. The State is now pressed to adopt a measure of which the country have had five years' experience, and the evils of which have followed with such fearful rapidity.

In the *second* place, this is no new ground of agitation in Scotland. We have had it in various forms, (at long intervals), once or twice before, since 1712;—and a steady and firm maintenance of one line of policy by all administrations, as a matter on which party politics could have no bearing, has always produced the effect of bringing about in a short period of time, perfect satisfaction among the great bulk of educated and thinking and religious men.

The change to popular choice, for such is the alternative, is now proposed to be made in times when the evils will be incomparably greater than at any other period of society, and when the risks to the Church are far beyond what they could formerly be, inasmuch as the elements of division and strife, of heat and contention, and of excitement in every form, are multiplied to so fearful a degree.

Preserve our CHURCH at least from the operation of such evils. Firmness has done it before—the same quality will do it again.

A sense of the necessity of preventing the increase of Ecclesiastical power and influence, has been one great object of the policy pursued in regard to the Church of Scotland, by all successive administrations of the country since the Revolution; and a change which will introduce such an engine in the present day, is one of the greatest evils with which society can be threatened, or by which the interests of Religion can be impaired.

Your Lordship has seen how the proposals of the Committee, and the whole proceedings of the Church tend to that result.

The way in which the Church approach the Legislature, is by an act of open usurpation of power and of defiance of the law.

There cannot be a more serious consideration for the Legislature or Government of the country than the resolution of the Established Church,—(1.) not to perform the duties imposed on it by the statutes which are the origin of the Establishment; and (2.) that the Church may both interpret these statutes in the way it pleases, and act upon that interpretation.

There are many objects which the 'ecclesiastics' in Scotland have in view, which, on the same principles, they may proceed in like manner to accomplish.

Is the Government to permit them to triumph in their present attempt to carry their object by open defiance of the law, and to succeed by the very extremities to which they have had recourse?

The agitations of the present time have not raised a question of more serious import to the liberties of the country, and to the interests of religion, than that which the Church of Scotland has forced upon the country.

There is a plain, practical course to be followed—Let the law be obeyed and enforced.

The great security for the due regulation of all Bodies in the State, is the authority of statute law; and in regard to the limits of the jurisdiction of such an institution as a National Church, there is no protection against the greatest abuses and the utmost perversion of the objects for which it is established, if the Church shall be permitted to refuse by public resolution to perform the duties imposed on it.

The progress which has been made since 1834, on the part of the Church, in throwing off the restraints by which its jurisdiction had been previously kept within its prescribed limits, has been indeed rapid; but that progress is only a proof of the great hazards to the interests of civil and religious liberty, when these limits are not strictly enforced. It was said, incidentally, but very emphatically, by Dr. Mearns, in September 1834, 'However the magnitude of subsequent innovations may throw into obscurity those which have preceded, the ecclesiastical proceedings of 1834 can hardly fail to be memorable in this country, as having effected the first practicable breaches in those barriers, which the wisdom of our ancestors, profiting by the events of former seasons of disturbance, erected for securing the safety of the Church, the deliberate and balanced exercise of her legislative powers, the constitutional and exclusive rights of her judicatories, and the reputation of her ministers and probationers.' Let us take warning in time by the consequences which have so soon resulted from these barriers being broken down, and resist, before the disturbance to the social system is

greater, the systematic attempts of the Church to erect its own authority above the controul of the Law.

To one topic I must advert in conclusion.

In the present state of political parties, symptoms have appeared among some adherents of each, of attempts to court support from the Church, by giving vague encouragement to plans which neither party have probably the least desire to take up as party questions, or the least intention to carry through.

And, on the other hand, by *some* of the clergy indications have been manifested of a wish to make each party look to the support of the Church *in politics*, as the reward for aiding them in the attainment of their present objects.

Some Whigs and some Conservatives, though very few of either party, have shewn a sort of rivalry which should bid highest for the support of the Church in the present crisis: And in one or two *movements* in expectation of elections, a few of the clergy have more or less indirectly attempted to interfere, and to influence the views of electors by appeals to them on these questions.

There is nothing against which both parties should so strenuously guard as the interference of the clergy of the Church of Scotland to any extent in political elections. Such interference will only tend to strengthen the power and influence of 'ecclesiastics,' and to enable the Church to wield a direction and controul which will be most injurious to the welfare of society and to the interests of religion.

For party purposes, the attempt by the adherents of either party to gain support from the clergy, by taking up the questions at present agitated by the latter, will be eminently fruitless. *Neither party will get the slightest credit for sincerity in their attempts*; while such of the clergy as can bring themselves to interfere in politics in order to promote these Church objects, and to resort to such means for these ends, will only have in view to make themselves of importance—to keep up and strengthen the influence they thereby acquire,—to convert the influence of the Church over the minds of the people into an engine, which they may wield against both parties, and to revive that state of things which, two centuries ago, shewed the evils of such sway being in the hands of a Presbyterian Church.

It would be difficult to say, to the principles of *which* of the great parties in the State any such attempts to court support, *by encouragement to the present proceedings* of the Church, would be most alien.

But the men guiding the present extraordinary proceedings on the part of the Church, know well that, if they carry their objects, they will in truth *be indebted to neither party*,—that if they receive support, it

will be by *extorting reluctant aid*—that they will triumph by the *boldness of their resolution to set the law at defiance*,—and that any aid they may receive is the result of concession by those who either dread the extremities to which the Church are hurrying, or unwillingly court them, in order to cast the balance between two parties, to either of whom (it is thought by some partizans) *any aid is a great gain*.

To neither party will the Church feel in the smallest degree indebted—and even if any considerable portion of the clergy were disposed to mix in politics, neither party would have the slightest hold over them, in consequence of aiding them in obtaining the changes which they now desire.

Some of the clergy, and some of those who go along with them in their present proceedings, no doubt, hold out very openly the importance of their aid, and declare that they will throw their weight, in elections, into the scale of the candidates who will pledge themselves to their objects.

It betrays a great ignorance of the state of things in Scotland, to suppose that any weight can be derived to either party *from the interference of the clergy of the Established Church in any political matters*. The influence of the clergy in Scotland arises wholly from character. Interference in secular matters beyond their proper sphere and province, which has hitherto been very rare and unusual, is always looked upon with great jealousy and dislike: *The middling and lower orders, in an especial manner, disapprove of the minister mixing himself up with things which do not belong to religion*: They do not like that the influence, which his sacred character gives him, should be brought to bear on secular matters, and to controul and direct them in such affairs. I am firmly persuaded that, wherever they have hitherto interfered, the result has been prejudicial to the very interest or to the very individual they were supporting,—while their interference increases the alienation and hostility of parties, who may not be inclined to support the candidate, whom the clergy befriend.

Those of the clergy who may have opposed the measures of the present Government, as, in their opinion, injurious to the interests of religion, could not, with the slightest prospect of retaining weight or respect in the opinion of their neighbourhood, suddenly support a liberal candidate, because he promised to carry through the Veto for them.

Those who are at present disposed to aid the Government would bring on themselves equal discredit, if, while they approved of their measures, they were to aid a Conservative because he threw out to them the bait of this question.

The clergy can make no sudden or marked change in politics, without suffering in character more than any other class, for it is only a sense of the general dangers of a particular crisis which will ever reconcile any man to interference by them.

The idea, then, that either party could gain by taking up the questions I have been discussing, in order to obtain *support from the clergy*, is a very idle, and not very creditable, speculation.

The *electors* of Scotland again, are in no degree disposed to take up the Veto at all—much less with any view to politics, or to make any change of opinions on account of it,—and the more the clergy interfere, the less will the electors be inclined to support them.

While the interference of the clergy would aid neither party, I am also persuaded, *first*, that very few of the clergy would act such a part; and, *secondly*, that they would find that there was no such degree of interest as they imagine on these questions among electors.

The last meeting of the Commission completely proved how vain is the expectation that either party will get support from the Church by a sacrifice of their general opinions, in return for concessions upon the subject of the Veto. The meeting was numerously attended by the supporters of the Veto. The report was read, of the supposed encouragement given to the Deputation by Lord Melbourne. Immediately afterwards, a petition *against the Government plan of education* was proposed, on the same grounds on which it has been objected to in England. One or two ministers broached as an objection to any condemnation of the scheme, that they must endeavour to get the aid of Government in carrying their questions of Jurisdiction and the Veto, and that they might embarrass the success of these measures by opposition at present to the Government.

Dr. Chalmers strenuously disclaimed any such rule of conduct, and declared that he would never seek to attain the one object by the improper surrender of any principle connected with another. The result was, that the vote for a petition against this Government measure was carried unanimously, after an attempt at opposition by one or two supporters of the Government among the lay members.

Whatever objections may be entertained to the proceedings of the majority in the Church Courts, which I have detailed in these pages, he must be most ignorant of the clergy of Scotland, who supposes that their support is to be bought on any such grounds, or by any of the attempts to court them, which have been made by some of the adherents of both parties, or that any portion of them, beyond a few individuals, whose interference probably would equally take place from other causes, will ever join in political contests in return for aid on particular questions, and without reference to their general opinions on the questions of vital interest to the country.

Permit me, my Lord, finally, in reference to all the proposed changes in the Polity of the Church, which are so vehemently pressed upon the Legislature, to request your attention to the emphatic terms in which Sir

Henry Moncreiff closes his review of the discussions which, in former days, had agitated the Church of Scotland respecting the appointment of ministers, and which, near the close of his useful life, he expressed his hope had terminated for ever.

‘ Amidst all the diversities of opinion, and the division of parties on particular subjects, which appear in the preceding Pages, it cannot be denied, by those who are competent to judge on the subject, that the *practical effect* of the Church Establishment in Scotland, on the general information of the people, on their private morals, and on their religious character, *equals, if it does not surpass*, whatever can be imputed, in the same points, to *any other church in the world*.

‘ THIS IS THE MOST IMPORTANT FACT WHICH CAN BE STATED ; and, in comparison with this fact, *every other feature in the laws or practice* of any ecclesiastical body is equally unimportant and uninteresting.’

I have the honour to be,

MY LORD,

Your Lordship's most obedient servant,

JOHN HOPE.

APPENDIX.

APPENDIX.

I.

DR. COOK'S RESOLUTION IN THE GENERAL ASSEMBLY OF 1833.

That the General Assembly declare, that in all cases in which a person is presented to a vacant parish, it is by the law of the Church, sanctioned by the law of the land, competent for the heads of families in full and regular communion with the Church, to give in to the Presbytery within the bounds of which the vacant parish lies, *objections of whatever nature against the presentee, or against the settlement taking place*; that the Presbytery shall deliberately consider these objections; that if they find them unfounded, or originating from causeless prejudices, they shall proceed to the settlement; but if they find that they are well founded, that they reject the presentation, the presentee being unqualified to receive it, it being competent to the parties to appeal from the sentence, if they see cause.

II.

NOTE A, TO SIR H. MONCREIFF'S BRIEF ACCOUNT OF THE CONSTITUTION OF THE CHURCH OF SCOTLAND, AND OF THE QUESTIONS CONCERNING PATRONAGE AND THE SECESSION.

It will not perhaps be useless to mention generally the preparatory studies and qualifications required in candidates for the ministry in the Church of Scotland. They were at all times in substance what they are at present; and it will be sufficient for the purpose of this note, to mention the general laws on the subject, as it now stands, without taking notice of accurate regulations, originating in particular cases, and introduced at different times.

A young man intended for the Church, after completing his education at a Grammar School, is required, before he enters on the study of Theology, to attend a University at least four years. During that time, he is supposed to complete his studies in the Greek and Humanity classes, and afterwards to apply to the study of Logic, Moral Philosophy, and Natural Philosophy, taking along with these any other branch of know-

ledge, with which the University furnishes him, subservient to his studies in these different departments.

He is not allowed to become a student in Theology till he has completed the course of literature and philosophy. He is then placed in the Divinity College; and besides the prelections in Theology which he must attend, he has also to study in the classes of Church History and Oriental Languages.

This course of study in Theology requires an attendance of four years; and till it is completed, he cannot be received on probationary trial, or receive a license to preach.

If his attendance on the Divinity College has not been uniform or regular, a longer period of study is required. But in all ordinary cases, a license to preach cannot be applied for, till after the study of at least eight years, (including the classical and philosophical course,) at one or other of the Universities.

After this time, a young man is proposed to the Presbytery under which he resides, as a proper person to be received on probationary trial, with a view to his receiving the character of a preacher, and he must then produce regular certificates from the University, not only of his attendance during the time prescribed by law, but of his good character, and of his having performed the exercises required in the Divinity College. The proposal of receiving him on trial must be at least a month on the table, before it is considered, that time may be given to inquire into the character of the candidate. If at the next meeting there is no objection made to him he is then examined, either by the Presbytery or by a committee, on the whole extent of his preparatory studies—on classical, philosophical, and theological knowledge. This examination is intended to be private, and if the candidate does not acquit himself to the satisfaction of his *private* examiners, he is remitted by them to his studies, and his name is not again mentioned to the Presbytery till he becomes better informed. If, on the other hand, the candidate appears to possess the requisite information, the Presbytery, before they take any other step, is then obliged to write circular letters to every Presbytery within the bounds of the Synod to which it belongs, intimating the intention of taking the young man on probationary trial, if the consent of the Synod shall be obtained. This must be done at least two months before the meeting of the Synod. If the Synod, from any thing supposed doubtful or exceptionable in the character of the candidate, shall refuse to consent, the measure cannot be persisted in by the Presbytery, though there may be an appeal to the Assembly.

It is scarcely conceivable, that better or more effectual precautions can be taken, to prevent the reception of improper persons on probationary trials.

But after all this has been done, if the Synod allow the candidate to be received, his qualifications are still to be tried. Five discourses at least are prescribed to him, which he has to deliver in public before the Presbytery; one of them a Latin and another a Greek exercise, one an exposition of a portion of Scripture, and two discourses on scriptural texts. He is then publicly examined on his knowledge of Theology,

Church History, Greek, and Latin; or, according to a late practice, three questionary trials are taken before the public discourses. And it is not till he has acquitted himself to the satisfaction of the Presbytery, on every one of these points of trial, that he can receive a licence to preach.

No institution administered by human beings is so perfect as not to fail in particular instances. But there is no church in christendom in which more effectual precautions are taken, to prevent the introduction of improper persons into the clerical functions.

After a candidate has been licenced to preach, he is not put into full orders, till he is to be inducted into a parochial charge; and this is not done till he submits to a new trial of his qualifications, before the Presbytery, within whose jurisdiction the parish to which he is presented is situated. The substance of the trial prescribed for ordination is the same with those which are required for a licence to preach.

NOTE F TO THE SAME WORK.

Besides the superintendence of the pastoral functions and personal conduct of the clergy, after they are in possession of their benefices, which is vested in the Ecclesiastical Courts, there is another power intrusted to the Presbyteries, which is intended to protect the Church and the people against the introduction of clergymen who are of exceptionable or doubtful character.

Before a minister can be inducted to a benefice, intimation must be made from the pulpit of the Parish, that on the day appointed for his ordination or admission, (that is, for his collation to the pastoral care and the benefice,) any individual parishioner may state to the Presbytery any objection to his life or doctrine which he may think relevant, of which the Presbytery are afterwards to judge.

When that day arrives, intimation is made at the principal door of the Church, that, if there are any objections to be made to his life or doctrine, the Presbytery are met in an adjoining house, ready to hear and to decide on them. But in this case, the diet is peremptory; the objections, if they are made, must be verified *instantly*; and if there are any witnesses to support them, they must be in attendance, and ready to be produced for examination.

If the Presbytery should find that the objections are relevant, and are proved, they have the authority to sist their procedure, and to refuse to go on to the induction. If the objections stated are frivolous or unfounded, or if the proof offered is insufficient to sustain them, they are of course dismissed; and the induction is completed.

These forms are universally and strictly observed, and cannot go into disuse. There are not many instances, indeed, in which Presbyteries find it necessary to sist their procedure at the return of an

edict; though some examples there have been, at no remote period. But every one must see the efficiency of the law, wherever there can be a substantial reason for having recourse to it.

So effectual and complete is the superintendence under which the Scottish clergy hold their situations in the Church.

III.

REASONS OF DISSENT from the Declaration or Resolution of the General Assembly, in May 1838, in relation to the Overtures transmitted to it, respecting the Independence of the Church, given in to the General Assembly, and subscribed by the Ministers and Elders, whose names are subjoined.

We dissent from that Declaration or Resolution, for the following reasons :—

First, Because, whilst we hold sacred the spiritual independence of the Church, we highly disapprove of the concluding part of the Declaration, sanctioning, as it seems to us to do, the dangerous doctrine, that whatever the judicatories of the Established Church may choose to comprehend under spiritual matters, they have power to enforce by ecclesiastical censures, although declared by the supreme legal tribunals of the country to be an invasion of civil right, and consequently illegal.

Second, Because the implied, or rather the avowed purpose of punishing by deprivation of license or otherwise, presentees who will not bind themselves to submit to the Veto act, even although it should be ultimately decreed by the House of Peers to be an infringement of civil right, appears to us equally unjust, and beyond the powers of an ecclesiastical court—placing such presentees without the pale, and depriving them of the protection of law and of government.

Third, Because, with a view to the object contemplated by the framers of the Declaration, it must eventually prove powerless; it being in our estimation, beyond a doubt, that the majesty of the law as to what is pronounced by it to be a civil right, will be asserted in regard to the Church, as it has often been even in regard to the proceedings of both Houses of Parliament.

Fourth, Because the tendency of a measure which implies that the Church can decide when, and how far the members of it should obey the law of the land, will be, we have every reason to believe, to alienate from the Establishment a large proportion of the most respectable and enlightened classes of the community; many from these classes having already expressed a doubt, whether it be consistent with their duty to the State, to continue in communion with a church by which such a measure has been sanctioned and adopted; whilst, at the same time, there is set before the people an example of what may be represented

as resistance to lawful authority, which may have the most pernicious effects.

Fifth, Because the consequence of such a declaration as that of the General Assembly must, as we think, be to throw the most formidable additional obstacles in the way of extending the Establishment, inasmuch as the Church, in disregarding the judgments of the legal tribunals of the country, thereby places itself in an attitude which prevents it from sufficiently fulfilling one of the most important purposes for which it was instituted.

Sixth, Because the Declaration, involving, as in our opinion it does, the dissolution of the tie which unites the Church and State, there is the most serious ground for apprehending, that if our ecclesiastical judicatories persist in adhering to it, and in carrying it into operation, this may ultimately lead to the abolition of the Establishment; and the people of Scotland may thus be deprived of the inestimable advantages which, under it, they have so long enjoyed, and which, through the Divine blessing, have so essentially contributed to the virtue, the happiness, and the religion of the country.

IV.

MINUTES OF GENERAL ASSEMBLY IN THE CASE OF MR. YOUNG.

At Edinburgh, the 28th day of May 1838.

(*Session Ult.*)

Which day the General Assembly of the Church of Scotland, being met and constituted, having resumed the Reference from the Synod of Perth and Stirling, and the Presbytery of Auchterarder, and having directed the minutes of their sederunt on the 24th curt. to be read; the Moderator inquired whether Mr. Young was at the bar. Mr. Young appeared with the Dean of Faculty as his Counsel. A member of the House moved that the Reference from the Presbytery and the Synod and the Protest should be read, which was done accordingly. The Moderator then inquired whether Mr. Young had any statement to make to the House. The Dean of Faculty read and gave in the citation served on Mr. Young, and stated, that as the citation served on Mr. Young did not state *upon what charge or ground he was called to the bar*, he had no statement whatever to make on the subject of the protest mentioned in the citation, until it should be intimated to them what proceedings were to be adopted; in which case he should represent that a *copy of any charge against Mr. Young should be furnished to him*, and that *some person should be appointed to state the grounds of such charge*.

Parties having been heard, were removed. It was then moved, 'That the General Assembly find that the Presbytery of Auchterar-

‘ der having, in presence of the procurator of Mr. Young, found that his conduct in serving a protest on the Presbytery was a contempt of court, and he having immediately retired, when the court was about to call on him to withdraw it, and the whole matter, including the notarial protest, having been referred to the General Assembly, and Mr. Young having been cited under a deliverance on that reference to be heard on the subject of the said notarial protest, has no ground for stating that he was ignorant of the matter in respect of which he was cited; and the House direct the party again to be called and party to be again asked—whether he has any thing to address to the House?’

The Dean of Faculty being called upon to state whether any copy of the Minute of the Presbytery of Auchterarder, of date the 3d April and 1st May, and of Synod of the 17th of April, was served upon Mr. Young? stated that no copy of any of these papers was ever, of any date, served upon Mr. Young; and that no paper was served upon him whatever, but the citation he had handed in. No copy of the motion of the Assembly, in virtue of which he was cited being copied in or served with the citation.

It was then moved and seconded, ‘ That, in respect no specific and distinct charge has now been preferred against Mr. Young, the General Assembly dismiss Mr. Young from farther attendance.’ The vote being called for, it was agreed that the state of the vote shall be first or second motion, and the roll being called it carried first motion by a majority of 138 to 127. From this judgment Mr. Bisset dissented in his own name, and in name of all who may adhere to him, for reasons to be given in. Judgment was intimated.

A member of the House asked the Dean of Faculty, if he had advised Mr. Young that the serving of the protest was material to the support in the House of Lords of the judgment obtained in the Court of Session, or to enable him effectually to maintain the conclusions of his summons still undisposed of. To which the Dean of Faculty answered, That not being a party at the bar he would not answer that question. Another member of Assembly proposed to put this question to Mr. Young,—Whether Mr. Young is prepared to say that he served the protest on the Presbytery of Auchterarder under the direction of his legal advisers, that it was necessary or useful towards the conduct of the case in dependence at his instance against the said Presbytery? The motion ‘ that the question be put’ was seconded. The Dean of Faculty, as Counsel for Mr. Young, desired to be heard on this proposal, and stated that he had never known such a question put to a party before he was expressly informed of what he was accused; and therefore, he could not allow his client to answer it. It was moved and seconded—‘ That the notarial protest served on the Presbytery of Auchterarder manifestly arose out of the judgment pronounced by the Court of Session upon what that judgment declared to relate to a civil right, and as the General Assembly has resolved to appeal the case to the House of Lords, no ecclesiastical procedure in respect of Mr. Young should take place, till the cause be finally decided, and, therefore, the General Assembly discharge Mr. Young from further attendance.’

The vote being called for, it was agreed that the state of the vote shall be first or second motion. The roll being called and votes marked, it carried first motion by a majority of 132 to 130. The question was then put and answered in the following terms—That Mr. Young, not being aware of the extent to which his interests in future proceedings may be compromised, begs respectfully to say, that he is not *prepared* to answer that question, especially as the answer may be founded on to criminate himself if given in one way.

After some explanations as to the object for which the last question was put, Mr. Young, protesting that he is not answerable for the step he has taken, now states, that the step he took was by the advice and direction of the Counsel employed by him in the cause, viz. the Dean of Faculty and Mr. Wigham. It was then moved, that in respect of the statement now made at the bar by Mr. Young, the General Assembly resolve not to proceed farther against him in reference to the said notarial protest, and discharge him from farther attendance at the bar.

The course which took place upon the last motion was thus reported in the newspaper of the day—*Courant, 31st May 1838 :*

The House then divided, when there appeared,

For Mr. Dunlop's motion,	132
For Dr. Cook's motion,	130
Majority,	—2

Dr. Lee then read the question proposed to be put, whether Mr. Young was *prepared* to say, that he had served the notarial protest on the Presbytery of Auchterarder under the direction of his legal advisers, that it was necessary or useful in conducting the case now in dependence against said Presbytery at his instance?

The Dean of Faculty read the following answer:—Mr. Young not being aware of the extent to which his interests in future proceedings may be compromised, begs respectfully to say, that he is not *prepared* to answer that question, especially as the answer may be founded on to criminate himself if given in one way.—The motion carried did not advance matters one step. They could do nothing on the last vote. The House would observe that the question was put thus, whether Mr. Young is *prepared*, &c.—(Laughter.)

The Dean of Faculty said, he was induced to trouble the House with some observations in consequence of a remark by a member behind him, which induced him to think some members thought they could now get hold of Mr. Young on the ground of contumacy in not answering a question which the Assembly had found he must answer. They were mistaken. If the question had been—whether Mr. Young was bound to answer? he (the Dean) would have felt bound to consider it while the debate was going on.—But he had no intention of involving Mr. Young in what the House might consider as a *new* matter of contumacy—far from it; he had no such intention. Mr. Young entertains the deepest reverence for this House, and if any reverend

member, of weight and authority in the House, were to intimate that *in propriety* Mr. Young should, *from the respect due by a probationer to the Assembly, without regard to any supposed obligation*, answer that question, then, of course, *out of respect to the House*, Mr. Young will answer it.

Mr. Monteith—In respect of the false position in which we are now placed, and as I may not be a member of weight, I therefore ask you, the Moderator, to put the question a second time. (Cries of ‘No, no.’)

Dr. Cook knew the respect which his excellent friend at the bar had for this House, and *if put on the footing of respect for the House*, he felt assured he would advise his client to answer the question.

The Dean of Faculty, having *first inquired whether there was any other question, and being answered in the negative*, said, that Mr. Young, protesting that he is not amenable for the step he has taken, now states that the step he took was by the advice and direction of the counsel employed by him in the cause, viz. Mr. Wigham and the Dean of Faculty.

Mr. Monteith said, notwithstanding the ridiculous position in which they might be thought to have placed themselves, he felt that the Church had done her duty manfully. She had made a declaration of her principles, and expressed her determination to follow up these principles, and he felt not the slightest difficulty in moving that the Assembly *supersede* all further proceedings in reference to this protest.

The Dean of Faculty then said with some warmth, that any such proceeding, as *superseding* merely proceedings as to this protest, was a *breach of the understanding, on which alone he had allowed Mr. Young to answer the question, out of the respect* of a probationer for the General Assembly, and that he would not have done so, *if he had not understood that all proceedings on this protest were to be at once dropped*.

Mr. Monteith said, that though the Dean had misunderstood him at least; yet, after what he had now said, he would drop all proceedings whatever as to the protest.

The motion was unanimously agreed to; and the Dean of Faculty, with Mr. Young, left the bar.

V.

OBSERVATIONS BY SIR HENRY MONCREIFF ON ACT OF ASSEMBLY 1736, AT PAGE 61 OF ‘A BRIEF ACCOUNT,’ &c. Edition 1833.

It is scarcely conceivable, that the act passed at this time could have done more than soothe the discontent of the people by conciliatory language, unless more had been attempted than perhaps was practicable, and unless the act had been followed up by a train of authoritative de-

cisions—which was far from being intended. It does appear, however, that for some years after this time, the sentences of the Assemblies in the settlement of ministers, are expressed in a more guarded and softened tone than had been usual during some of the preceding years. They discover more solicitude to deal tenderly with the people, and not to irritate their humours by unnecessary exertions of authority. To this extent the enactment appears to have had some effect; and it ought perhaps in candour to be admitted, that the majority of those who were concerned in it might, at the time, have imagined it possible to do more to connect the settlement of ministers with the *consent of the people*, which it supposed to be essential, than was afterwards found practicable, even by themselves. At the same time, it is equally evident, that the members of the Church who had been most determined in disregarding the opposition made to the induction of presentees, if they concurred in this enactment, as they seem to have done, could have intended it as nothing more than a concession in words to the prejudices of the people, without any view to its influence on their decisions in particular cases, or to such a change of system as could have had any practical effects.











